



**Steve Bullock, Governor**

**Dan Vermillion, Chairman**  
PO Box 668  
Livingston, MT 59047  
406-222-0624  
District 2

**Richard Stuker**  
1155 Boldy Road  
Chinook, MT 59523  
406-357-3495  
District 3

**Tim Aldrich**  
3340 Rodeo Road  
Missoula, MT 59803  
406-542-3144  
District 1

**Logan Brower**  
P.O. Box 325  
Scobey, MT 59263  
406-230-2188  
District 4

**Shane Colton**  
335 Clark  
Billings, MT 59101  
406-670-2374  
District 5

**Martha Williams, Director**  
MT Fish, Wildlife & Parks  
1420 East Sixth Avenue  
PO Box 200701  
Helena, MT 59620-0701  
406-444-3186  
(Fax) 406-444-4952

Look for the Montana  
Fish & Wildlife Commission  
web page at  
[fwp.mt.gov](http://fwp.mt.gov)



**Montana Fish,  
Wildlife & Parks**

# Montana Fish & Wildlife Commission

**Location:** FWP Headquarters  
Helena Headquarters  
1420 East 6th Avenue  
Helena, Montana

**Date:** April 25, 2019

**Time:** 8:30 a.m.

## Agenda Items:

1. Call to Order and Pledge of Allegiance
2. Approval of Minutes of Past Commission Meetings
3. Approval of Commission Expenses
4. Commission Reports
5. Director's Office Report
6. Administrative Rule Proposal Pertaining to Amendments to Current No-Wake Zones and Adoption of New No-Wake Zones on Canyon Ferry Reservoir
7. Madison Negotiated Rulemaking Committee- Update
8. Statewide Fisheries Management Program & Guide- Final
9. Amendments to Administrative Rule Regarding the Bitterroot River Commercial Use Permit Restrictions, R2- Final
10. Glendive Chamber of Commerce & Agriculture Paddlefish Grant Committee, R7- Final
11. Biennial Closure of White Bear Fishing Access Site, R4- Final
12. Little Muddy Creek Fishing Access Site Easement, R4- Final
13. Pig Farm Fishing Access Site Lease, R3- Final
14. Dailey Lake Fishing Access Site Easement, R3- Final
15. Bridge 51 Fishing Access Site Lease, R5- Final
16. 2019 Migratory Bird Regulations/Seasons/Closures – Final
17. 2019-20 CSKT Pheasant, Partridge & Waterfowl Hunting Regulations – Endorsement
18. 2019 Lion Quotas – Proposed
19. Sharp-tail Grouse Reintroduction, R2 – Final
20. Thompson Fisher CE Amendment, R1 – Final
21. Mt. Haggin WMA, Land Transfer to Montana Department of Transportation, R3- Final
22. Spotted Dog WMA Grazing Lease, R2- Final
23. Blackfoot-Clearwater WMA Grazing Lease Renewal, R2 – Final
24. Three Mile WMA Forest Project, R2 – Final
25. Rob Ledford WMA Grazing Lease Renewal, R3 – Final
26. Fleecer WMA Grazing Lease Renewal, R3 – Final
27. Ear Mountain WMA Grazing Leases Renewal, R4 – Final
28. Big Lake WMA Haying Lease Renewal, R5 – Final
29. Public Comment for Items Not on the Agenda
30. Adjournment

### **1. Call to Order and Pledge of Allegiance**

Acting Chairman Stuker asked everyone to silence their cellphones.

### **2. Approval of Minutes of Past Commission Meetings**

Acting Chairman Stuker asked to approve the Minutes for December 2018.

Commissioner Brower moved, and Commissioner Aldrich seconded to approve the December 2018 minutes.

*Motion passes 5-0.*

### **3. Approval of Commission Expenses**

Acting Chairman Stuker stated that the Commission expenses are handed out in the folders and would entertain a motion.

Commissioner Brower motioned, and Commissioner Aldrich seconded to accept the expense.

*Motion Passes 5-0.*

### **4. Commission Reports**

Acting Chairman Stuker wanted to congratulate Commissioner Colton and Commissioner Aldrich for getting through yesterday. Hopefully, Commissioner Logan and Commissioner Byorth will through the day sometime. Congratulations guys. We will start with Commissioner Colton.

Commissioner Colton stated a lot of his time has been spent toward confirmation. He appreciates the support that he has received from everyone. He takes it seriously that those who put confidence on his behalf and he will try very hard not to disappoint. He is very hopeful that the Senate will see the qualifications of Commissioner Logan and Commissioner Byorth, so we can fill this panel. We want to do good work over the course of the next few years. Thank you.

Commissioner Brower stated he did not have too much to add other than he was getting ready for the hearings. Other than the fact of how things can change, on the way here we were cleared out of committee and planning on the next four years. Upon arriving in Helena found out that was not guaranteed. Regardless of whatever happens, he is grateful for Governor Bullock for putting trust in him to serve here. He is grateful for the public and other individuals who he has met through this whole process. It is rewarding to see the passion involved. Additionally, the Department and the quality relationships that were built as well as the gentlemen on this commission, it has been an honor as well. He hopes there will be another four years. If not, then it's been a great time. Thank you.

Acting Chairman Stuker stated the he hopes there is another four years. Our newest commissioner Pat Byorth, welcome aboard.

Commissioner Byorth stated it was an honor to be here, he considers this to be one of his highest aspirations. He treasures Montana's wildlife and fisheries. He thinks working on the Commission with FWP staff and sportsmen and women of Montana is a high honor. He may be the shortest sitting commissioner later in the day but until then he is excited to get to work. Thank you.

Commissioner Aldrich stated that is also thankful for the many opportunities that he has had. He has met and greeted a lot of people. It has been a great two years and looking forward to the next two.

For the last two months, he has been pretty busy with the Madison River Committee and working on recreation plan for the river. Had a good meeting in Ennis and again in Bozeman. He attended the hearing on the West Fork plan amendment. The meeting was in Hamilton with good attendance and comments. He was also able to attend the final meeting for the trapper advisory committee. It was an interesting meeting with a lot of good people there. There were a lot of good ideas floating around. He is looking forward to seeing what that committee comes up with.

Commissioner Aldrich stated that he got his aerobic exercise in this last couple of months shoveling snow. He is welcoming the spring season that is starting to appear.

Acting Chairman Stuker stated that he is sitting before you today as the acting chair. Chairman Vermillion retired. He will be solely missed and everyone in the community as well as the state of Montana. He did an excellent job for us for 12 years. When we get through all the confirmation hearings then the Governor will appoint a new chair for this position.

He reported that he attended a CWD meeting in March in Havre with the Region 6 staff. He thought they did a great job explaining to those who attended the meeting. One of the interesting facts that he found out at the meeting was that we were always told that buck carry the CWD more than does. Out of the positive tests, 95 percent of them were bucks. You can see how much higher the risk is.

Acting Chairman Stuker attended a block management dinner and there was good attendance there in Havre. He felt the Region 6 staff did a great job in presenting information about the Department and what was going on. He also attended an upper Missouri River reservoir management plan annual update in Helena. He thought they did an excellent job explaining where we were at and how we are moving forward. Talked about what the proposals may look like moving forward explaining where we are at and the explanations going forward.

He went to the confirmation hearings and thought they did a good job. Another interesting thing is he had a conversation with a hunter. His first question was "How can we as sportsmen police ourselves?" He understands that a lot of the problems out there are caused by the unethical hunters and it is affecting the ethical hunters. Somehow those individuals need to work with the landowners to turn in the individuals that are not following the rules. He advised the hunter to contact the game wardens and visit with them as well as TipMont. Thank you.

## **5. Director's Office Report**

Director Williams began by welcoming Commissioner Byorth. She echoes everyone else in hoping that the Senate will choose to vote one way or another and she certainly hopes that they choose to confirm the rest of our Commissioners as well. She has really enjoyed working with all of you. Often your work goes unnoticed and un-thanked. She appreciates the time and leadership that each of you have put into these issues. At Fish, Wildlife and Parks, everyone has been working really hard. A lot of good work has been accomplished. We have been deep into the Legislative session and certainly looking forward to the end of that this week. She is looking forward to getting out into the regions more and she has been so focused here in Helena.

It is field season starting in the regions. The regions have been doing relay great work. She feels like we have demonstrated the value of working as a team. On some of the accomplishments we have made. So, let's look forward to getting out and looking forward to the end of the session. She has been careful not to be too congratulatory or excited about accomplishments during Legislature because it is not over until it is over. She is going to hold on to that and maybe at the next Commission meeting we can address that. She is hoping that she can fall back on that piece.

Today's agenda demonstrates all the work that is going on and some of the issues and controversial issues that are coming up right now. She is looking forward to today's discussions.

## **6. Administrative Rule Proposal Pertaining to Amendments to Current No-Wake Zones and Adoption of New No-Wake Zones on Canyon Ferry Reservoir**

### **Background**

Canyon Ferry Reservoir is a large impoundment of the Missouri River near Helena that sees a large volume of recreational boating and camping during the summer months. All commercial marinas around the lake have no-wake zones in place and several public boat ramps do as well. In an effort to proactively address safety and maintain consistent regulations at all major public boat launches, FWP proposed administrative rule amendments to create no-wake zones to areas of heavy usage, which include Shannon Boat Launch, Court Sheriff Bay, Chinamen's Bay, Kayley Bay, Hellgate Bay, Silos campground area, and White Earth Bay. Several changes were proposed to the existing ARM rules for the purpose of clarity and to ensure that wake zones are organized and listed correctly in rule.

### **Public Involvement Process & Results**

The public has had an opportunity to comment on both proposals. We received 16 written comments on the first proposal, along with five oral comments at a public hearing. A two-week extension of comment was held for the public to consider the second proposal, in which 28 comments were received. Comments were received both in support of no-wake regulations and in opposition to new no-wake regulations.

### **Alternatives and Analysis**

The commission may adopt the department's first proposal published on Nov. 2, 2018, establishing no-wake zones around the areas of heavy usage listed in the background above. The commission may adopt the department's alternative proposal published on March 15, 2019, establishing a 200-foot no-wake zone on the north end of the lake from Kayley Bay to Crittenden Bay. The commission may adopt parts of either or both proposals.

Finally, the commission may choose not to adopt either proposal, in which case the regulations on Canyon Ferry Reservoir will remain the same.

### **Agency Recommendation & Rationale**

The department feels that either one of the proposals will increase the safety of the boating public on the lake.



The FWP boating program is committed to responsive waterway management. The department recommends starting with the least restrictive regulations and evaluating the need to add more restrictive regulations if they are needed. Therefore, FWP recommends the commission adopt the first proposal presented in October, establishing no-wake zones around the areas of heavy usage listed. This would represent a positive step in addressing safety issues on Canyon Ferry Reservoir and is in line with the comments received.

With this recommendation comes a commitment from the enforcement division to monitor and evaluate the regulations on Canyon Ferry, and to bring further changes to the commission to address any future issues on the reservoir.

Phil Kilbreath, Game Warden Sargent, Boating Safety Program, stated the Canyon Ferry no wake zone proposal that they have been working on and according to surveys that they have done, receives the second highest amount of boat traffic in the state of Montana. The first being Flathead Lake. It is a very popular area for fishing, camping and boating. It is very busy during the summer months.

All commercial arenas around the lake currently have no wake zones according to Arm rules. There can be a 200-300 foot no wake around a commercial arena. A few public boat ramps do as well. What we initially did with this proposal was to proactively address the safety issues and consistently maintain the regulations at all the major public boat ramps.

We originally proposed administrative rule amendments to a no wake zone in areas of heavy usage which would include Shannon Boat Launch, Court Sheriff, Chinaman's bay, Keely bay (although not a public ramp) and we receive the largest amount of complaints about that boat ramp. Also, Hellgate, Silos Campground and White Earth. There has been a couple of changes that we proposed to existing ARM rules to clean up the language and move things to the correct reservoir.

We received comments on the first proposal from the public during public comment periods. Many of the comments suggested that we adopt a 200 foot no wake zone around the north end of the lake and front of all cabin sites of the western fishing district. In the western fishing district, any lake under 3,500 acres

FWP received comments on the first proposal requesting the commission adopt a 200-foot no-wake zone around the north end of the lake in front of all cabin sites, similar to the rule in place in the western fishing district requiring that all lakes over 35 acres have a mandatory no-wake zone around their shorelines. This rule in the western fishing district has been successful, and FWP felt this idea was worth considering and collecting additional public comment on for Canyon Ferry. On Feb. 13, 2019, FWP brought an alternative proposal before the commission that would establish a 200-foot no-wake zone on the north end of the lake starting at Kayley Bay and moving around the lake to Crittenden Bay. After taking public comment on the alternate proposal, FWP recommends the original proposal be adopted by the commission.

The public has had an opportunity to comment on both proposals. we initially received 16 written comments and 5 oral comments at a public hearing. During the two-week extension of comment there were 28 comments. Comments were received in support of the 200 foot no wake zone and in opposition of it.

The Commission may adopt the first proposal as proposed in November 2019 establishing the wake zone and the heavy usage area. If you choose to adopt the second proposal that we brought forth on March 2019 to establish a 200 foot no wake zone on the north end of the lake from Canyon Ferry to Keely Bay to Crittenden Bay. Additionally, the Commission can adopt pieces of each proposal or none of them.

FWP would be happy with either proposal. Either one would increase boater safety on the lake. Speaking on behalf of FWP, Enforcement, and the boating program. We are committed to responsible waterway management. His recommendation is that they should start with the least restrictive and that we thoroughly evaluate how effective it works. This will help us determine if we need to add more restrictions and will be happy to bring that before the Commission.

Therefore, we recommend that the Commission adopt the first proposal of October that establishes a heavy usage listed. We feel that this would be a positive step in addressing safety issues on Canyon Ferry and is in line with the comments that we received. When we make this recommendation and as the program manager he is making a commitment that we will monitor and evaluate the regulations on Canyon Ferry. We will be responsive to what comes up. We will propose changes if we feel that is necessary.

Commissioner Aldrich stated we have a fundamental responsibility to do these types of things for the purpose of safety. We also have a responsibility to use the least impactful methodologies first. How do you assess between the first two? You recommended the less intrusive. You have wrestled with the input that you have received and recommendations from people that administrated the rules in the past. Where are you with that Mr. Kilbreath?

Mr. Kilbreath advised that when evaluating it, 200 feet from one cabin site all the way around to all the other cabin sites represents an essential larger area that would be restricted to no wake zones and that would be one method that we considered. There are people that don't like boats operating in front of the cabin sites and others like to water ski and pull skiers off of the dock. The

initial proposal spoke to public boat ramps were anybody could go to it. It would also address an area that we received a large number of complaints about Keely Bay. In trying to make that decision it came down to public boat ramps, complaints received, and start a least restrictive in terms of the area we want to restrict. We want to be able to adjust it if we need to. Thank you.

**Motion: Commissioner Aldrich moved, and Commissioner Brower seconded that the Fish and Wildlife Commission adopt and amend the administrative rules pertaining to no-wake zones on Canyon Ferry Reservoir as first proposed at the Oct. 17, 2018, commission meeting and published on Nov. 2, 2019.**

No Public comment.

*Motion passes 5-0.*

Jim Keane, Representative, House District 73, stated has a place at Canyon Ferry and a long history there. He built many of the projects there for Fish, Wildlife and Parks when they actually managed the area in the 1980's. he sent a letter in to comment. The thing that he would like the commission to remember is that Canyon Ferry was built as part as the Peck-Sloan project. The difference in this earlier project was that earlier bigger projects were for irrigation, generation and recreation . where they are is designed by the Federal Parks Bureau to pick those sites out and bring recreation to Canyon Ferry.

It has been successful over the years. It has also increased and protected the land. Over the years, what has happened is people do not like wakes. Boats create wakes. That is what you are faced with. Usually someone comes in and say the bigger wake boats are creating a problem. It is recreation. He wants the Commission to be cautious about this and other areas when they start complaining about boat wakes. This is part of the designated area that is for recreation. It happens at the north end because that is where the cabins are. Another thing to keep into consideration is that some of the major wakes are created by the weather. He has a dock and a boat. The wakes come in there and it doesn't bother him.

When a new person comes to you and says we need to stop this. You may have voted on this already as I am late. But, he encourages the Commission to choose the least constrictive project. The reason that he is concerned is that if you have a dock and you have a skier, you want to pull it off if your dock, and you want to return to the dock. Does this put you in the no wake area? That creates a problem because that was the designation to create recreation at Canyon Ferry. Boats are a big part of that as well as fishing and what not. Thank you for taking the time and it is a great place and have done a lot of work in conjunction with the parks. He doesn't think that this is fair. Thank you.

Acting Chairman Stuker thanked Mr. Keane. He advised that as he said earlier, it was voted on if the commission decided to vote on an amendment. He thanked him for his time. Good luck up at the Capitol today.

## **7. Madison Negotiated Rulemaking Committee- Update**

### **Background**

The Madison River Negotiated Rulemaking Committee has met 4 times since December 2018 for the purpose of revising the April 2018 recreation rule by FWP to the Commission. A process called "Structured Decision Making" has been used by the facilitator (Mike Mitchell of the U of Montana) to try to find areas of consensus. Products of the committee have included a problem statement, objectives and a variety of alternatives. One more meeting has been scheduled for May 2.

### **Public Involvement Process & Results**

All negotiated rulemaking meetings are open to the public and all have been well attended by members of the public. The public is not allowed to participate in the deliberations of the committee, but a half-hour segment is set aside at the end of each day's meetings to allow verbal comments from the public. Opportunity for the public to provide written comments is also provided on the FWP website. Written transcripts of the meetings are provided on the website as well.

### **Alternatives and Analysis**

Informational item only. There are currently no alternatives to consider.

### **Agency Recommendation & Rationale**

his is an informational item. No commission action is currently requested.

Acting Chairman Stuker advised that the Madison River Negotiated rulemaking is just an update and they will not be taking any public comment. If anyone wishes to comment they may at the end of the meeting during the comment period for item not on the agenda. You will be allowed to comment then on this or anything.

Eileen Ryce, Fisheries Administrator, stated they have several items on the agenda today. She will start with the Madison. The rest are all finals. As Commissioner Aldrich mentioned the Negotiated Rule Committee has had four meetings encompassing seven and

a half days. They have been using a process called structured decision making with the intention of revising the draft rule that was presented to the Commission in April of 2018.

The committee has submitted a problem statement, objectives, and a variety of alternatives. A webpage has been created for the committee's information including all the transcriptions from the meetings. At each meeting we provide opportunity for public comment at the end. Although during the committee deliberations we asked that the public not participate.

The next meeting is scheduled in Bozeman at the headquarters office. Several committee members have stated their willingness to continue to work toward agreement. Other are concerned that agreement at this time could not be reachable. At the next meeting on May 2 at the Bozeman regional office. We will discuss further, and not structured decision making can be used to achieve agreement on how to proceed.

Commissioner Brower asked what some of the alternatives were if they don't continue with structured decision making?

Ms. Ryce advised that they have been in contact with a local expert in conflict resolution, Nedra Chandler. She has been used previously by the Department. She is going to come May 2 and talk to the committee about options that she has that might be useful. According to statute the committee does have to agree on how to proceed. The Committee had originally agreed to using structured decision making. At our last meeting they indicated they have gone as far as they can with structured decision making. Going forward they may use some form of conflict resolution.

Commissioner Brower asked about alternatives in case you do not continue with structured decision making.

Ms. Ryce advised that they have been in contact with a local expert on conflict resolution, Nedra Chandler. She has worked previously for the Department. She will come on May 2 and talk to the committee about options that she has that may be useful. According to the statute, the committee does have to agree on how to proceed. The Committee had agreed to using structured rulemaking. At our last meeting there was indication that we had gone as far as we could go. Going forward we will probably use some sort of conflict resolution.

## **8. Statewide Fisheries Management Program & Guide- Final**

### **Background**

The first Statewide Fisheries Management Plan was completed in 2013 and provided a summary of Fisheries Division programs and how fisheries are managed across the state. The plan was not prescriptive, in that it did not propose specific management actions if specific goals or objectives were not met. Since the document functions differently than waterbody or species-specific management plans, staff is proposing a name change to the Statewide Fisheries Management Program and Guide 2019-2027 (Guide). The Guide provides the framework for how programs within the Fisheries Division function and outline how fisheries are managed across Montana. The Guide contains two parts: Part I summarizes specific programs within the division and how those programs support fisheries activities; Part II is organized by drainage and provides an overview of fisheries priorities and challenges within each drainage and outlines priorities for primary waterbodies within drainages. The Guide provides updates to fisheries programs and addresses new issues that have occurred since the first plan was completed in 2013. Drainage and waterbody-specific issues and priorities are also updated in the Guide. The Guide is intended to be used as a reference for legislators during biennial legislative sessions, to be used to inform fishing regulation setting during four-year review, and to serve as a reference to the angling and recreating public to understand fisheries programs and how aquatic resources are managed.

### **Public Involvement Process & Results**

The initial public comment period was Dec 13 to Jan 13 but was extended to Feb 4 at the request of the public and extended again to Feb 15 at request of federal partners. Comments were submitted by 330 individuals representing themselves, angling groups, or government agencies, compiling a total of 1,275 comments. See attached comment summary for additional discussion on common comment themes and FWP responses.

### **Alternatives and Analysis**

The commission could adopt the final Statewide Fisheries Management Program & Guide, amend the Guide, or not approve the Guide.

### **Agency Recommendation & Rationale**

FWP staff recommend approving the Statewide Fisheries Management Program and Guide.

Eileen Ryce, Fisheries Administrator, stated this is a final agenda item. The Statewide Fisheries Program and Guide was presented to the Commission in October of 2018. Several members of the public indicated that walleye should be classified as a native species for Montana. The Commission approved the Statewide Fisheries Program to be sent out for public comment. They requested that the Department complete an extensive review to determine the status of walleye.



The initial public comment period was December 13 to January 13, 2019. At the request of the public we extended it to February 3, 2019. Then at the request of our federal partners, we extended it again to February 15, 2019. During the comment period 330 people commented representing themselves as well as angling groups and government agencies. There was a total of 1,275 individual comments. The materials including all the raw comments that we received in addition to a summary which categorized comments into themes. There were 17 general topics that were commented on including specific comments on certain waterbodies, fishing regulations, recreational concerns, aquatic invasive species, habitat, and species-specific comments.

There were 232 comments received specifically on the walleye status issue. This was the most commented on subject. Missouri River walleye received 227 comments. There were 322 comments were received on specific waterbodies and 242 were specifically about the Missouri River.

A number of changes were made to the program and guide based on the comments. Those are summarized in a table that was provided to you. Many of the changes were made to bull trout and arctic grayling. There were changes to sections in the program and guide regarding responses from our federal partners. Several program updates were made on new information from the staff, public, and other agencies. Several comments were provided on fishing regulations. Specifically, regulation change comments are being addressed through the regulation review process. Which is currently ongoing with proposed regulation changes coming to the Commission in August of 2019. Other comments were received regarding the regulation setting process which is currently on a four-year cycle. Every four years an extensive scoping process occurs. The process has been in place this way since adopted by the Commission in 2003.

The reason for the four-year process was to give new regulations time to work and reduce time that staff devotes to the process. It was also changed at the request of the Commission to provide the process with more formal structure. The public and staff can propose regulations changes at any time three off years. Proposals would be considered if they met one of five criteria that currently are clarifications, enforcement reasons, conservation, relevancy, and management plan. In the recent past years, we have implemented 20 off cycle regulation changes in response to management plan triggers and was the case on Canyon Ferry when the walleye regulation limit was changed. There were changes in response to unauthorized introduction such as the case on the Kootenai River with brown trout regulation changes. There were also changes in response to population changes. Examples are the Newlan Creek changes regarding the kokanee snagging.

Many of the changes recommended during the program and guide comment period would fall under the relevancy category which would include changes in regulations in response to significant changes and use, population abundance, ecological changes, social, and environmental impacts. The Division commits to reviewing all regulation changes when submitted by the public. We recommend continuing to conduct full scoping effort on the four-year cycle.

The walleye status is the biggest issue to arrive during the public comment process. Before summarizing our work on the status question, she would like to give thanks and credit to our warm water native species biologist Zach Shaddock who will be available for questions. Zach was the lead on our extensive literature review of walleye distribution and range. A detailed summary of that work was provided to the Commission on March 22 and should be in your materials. At this time, there was no new information available to change the walleye status from non-native to native. However, if new information becomes available we will review and change our position if necessary.

The results of the review were presented to the American Fishery Society in Billings in February. During the meeting there was good discussion and no new information was brought out during the meeting or after. A public presentation was made in Helena February 28 and was well attended. There was great discussion and questions. We were provided with two additional contacts from walleye advocates.

The presentation was video recorded, streamed live over Facebook and shared with walleye experts across the nation. No new information was provided to suggest our non-native conclusion was wrong. We have since been in contact with geneticists both in house and externally to identify if genomic studies could definitively answer the question. Additional sampling from walleye populations both in Montana and the Dakotas would be required to compare populations in known native ranges.

A native species is defined as one that historically occurred in the drainage without being introduced by humans. The understanding that the walleye are non-native in Montana has been held by notable ichthyologists. This is not the first time that this has been questioned, including multiple attempts through legislation to change the status. We will continue to review new information if and when it becomes available.

On Tuesday of this week, we received a petition for rulemaking on walleye status. We are currently reviewing that petition, Walleye is an important sport fish in Montana. FWP is committed to the management of walleye and values the species for its recreational importance. We encourage the public and fisheries professionals to provide us with any new information that can be used to evaluate the status.

At this time, the Department recommends the Commission adopt the Statewide Program and Guide with the presented changes.

**Motion: Commissioner Brower moved, and Commissioner Colton seconded the Fish and Wildlife Commission approve the Statewide Fisheries Management Program and Guide 2019-2027.**

Acting Chairman Stuker stated that he had some questions for Ms. Ryce. The petition we received is being reviewed by Legal to see if it applies and who has the authority. It could be sent back with changes and those changes could be brought back at the next commission meeting.

Ms. Ryce added that the petition is under review. Regardless of the petition though if any new information comes to light that walleye should be categorized as a native anywhere in the state, we will come to you and suggest a change for the status.

Acting Chairman Stuker stated the other question that he has is that this is a four-year plan with scoping. He believes that when the five areas were being talked about and if there were significant public concerns you would actually look at to bring some recommendation to the Commission. Is that correct?

Ms. Ryce stated that was correct referring to the four-year cycle regulation changes. We are committed that if any of the changes fall within the categories, we will give them due consideration whether it comes from the public or the staff. At that time, we will bring those to the commission. Our typical schedule for regulation changes is to bring these changes to the August meeting. This allows us time to get it finalized in October for the booklet in time for printing in January for the next season. If there are emergency changes we will bring those to you at any time.

Commissioner Brower asked Ms. Ryce if she saw any huge discrepancies on walleye management whether it is labeled native or non-native.

Ms. Ryce stated they are committed to managing walleye. Regardless of the designation we currently manage it as a sport fish. Certainly, there are places where this is more appropriate as a sport fish than others. It is hard to say how our management would change because it would determine where the species would be native to. Typically, species are designated native to a drainage. We have a lot of native species that we manage currently as sport fish. We also have native species that are in the state and some drainages that are not native in others, in those cases it might be managed against. We have had cases where removal on a species that is native in other parts of the state.

Commissioner Colton apologized that the rule making petition came when he was away from work. Was there a quest for rulemaking for the Commission to designate walleye as a native species or was it that tailored?

Ms. Ryce advised that she would leave this to Legal counsel.

Becky Dockter, Chief Legal Counsel stated the petition was specific to request that the walleye be designated as a native species in Montana. It maybe steps back a bit and is requesting rulemaking that the public can have an input on that. In the end what the suggestion is that it is rulemaking for designating walleye as a native species.

Commissioner Colton asked if there were any situations in which the Commission was engaged in rulemaking to adjust the status of any species?

Ms. Dockter advised that it is her unofficial opinion that this Commission may not have the authority to do rulemaking to designate species as native or non-native.

Commissioner Colton stated he didn't think that would have any legal standing. He can't call a grizzly bear a black bear and make it so.

Ms. Dockter advised that was right.

Public comment.

David Brook, Montana Trout Unlimited stated he wanted to commend FWP for taking all the public comment including all of our organizations. As Ms. Ryce mentioned, comments of the U.S. Wildlife Service and paying attention to those comments as well as things we thought were important. He wanted to Commend the fisheries on the job they did on reviewing the science, literature and public comment on walleye issues in Montana. He attended as many of the hearing that he was able to. It was really impressive and how open they were to the literature and science to the public comment. He fully supports the Statewide Management Program and Guide as it is now written. He hopes the Commission will approve that.



Dale Gilbert stated he wanted to comment on a couple of things. He respects the revisions and comments that were made to the statewide plan for the most part. He very much appreciates and supports what is being brought forward and is pleased with the way that things have happened the way they have. As far as the petition and he has read it, he is not an attorney but as far as the petition from the group that has presented it asked for the opportunity to have a meeting to be able to bring it forward for the rest of the story. What you have heard so far is somewhat one sided as it presents the side of the Department.

There is a whole lot more that could be heard. He thinks the whole story needs to be told and that is he is asking for. He doesn't know what the whole legal ramification are but, he feels strongly that we need to bring forth the whole story. An open book can put it all on the table. The chips need to fall where they need to fall.

Lance Kresgy, Walleyes Unlimited, stated he does not understand the legal end of it but, through the petition to present more information that we have on the walleye and the status for that opportunity through the petition. He asks that they get that opportunity to present. He also wanted to thank everyone for the effort that was put into the statewide plan.

Commissioner Colton wanted to echo the public's comments and applaud Ms. Ryce and her staff. There was discussion earlier that the meetings were not being held at the right times and an attempt to avoid public comment. They were being very proactive in addressing that. He wanted to thank Director Williams as well. FWP did a very good job engaging the public and putting this plan together. He knows that it is a lot of hard work to put this all together and the anxiety of the meetings. Who is going to be there, what is going to be said, is it a full moon, and are they going to be really cranky? So, thank you. It is really amazing all the work that was put into this.

Commissioner Aldrich stated that he too would like to thank everyone for all the work that went into this. He wanted to thank all the people that had input on this and it is always a work in progress. The door is always open to make the kind of changes that we need to make if the information should come forward. He thinks that this is a great piece of work and it is time to move it forward.

Director Williams wanted to add that one of the priorities of the Department was trying to figure out how to better engage the public. This process has demonstrated how the public wants to engage with us is changing. It is not just showing up at hearings. We appreciate the chance to learn from this. We want to do the best that we can and that we are open to new ideas. We are trying to do that as best as we can.

Acting Chairman Stuker added that he would like to echo comments made at this table. He attended a lot of the meetings. He saw tremendous growth in the Department staff in learning to engage the public as Director Williams has said and understanding how to do that. This will probably pass the Commission today. He hopes that the efforts are continued to engage the public making sure that all of those comments and concerns are addressed so they know that we are listening. Many individuals were not sure how to get the comments in and I think now they are, so I thank you and the staff.

#### *Motion passes 5-0.*

Jodene Bing wanted to comment on the no wake proposal. Her and her family own three cabins on Kaley Bay. They purchased their cabin over 12 years ago. There were many cabins for sale when they were looking. We didn't buy the fancy house; we bought the one on Kaley Bay as we are avid water skiers. It is a family recreation. Her brother, kids, grandkids, and husband, we all ski. It is the perfect waterski bay. It brings us a lot of enjoyment. The calmer the water the better the skiing. This proposal shows Kaley Bay and there are about 30 cabins on one side of the bay and zero on the other.

We get up as a family in the morning when it is calm and ski the whole bay. Waterski boats are designed not to have a big wake. It is not a real intrusive wake problem. There are no public boat ramps on Kaley Bay. There are no cabins on one side of the bay. She was at the February meeting and she did not speak to all of you. She did speak to the enforcement officers. She left feeling confident that this proposal was going to be abandoned. It is now recommended. She is here to say that she did not rally support from her neighbors to express a take away of why we are here. She is hoping that her recreation is not taken away.

Maybe all you may not understand this, so she wanted to put it in terms so that you can see. Say your family is really into fishing. You are looking for a place for your grandfather to fish off the dock and your kids can fish off the boat. You find a cabin and you buy it. For 12 years you have all these great memories fishing. Then suddenly you can't drop the hook.

Acting Chairman Stuker advised Ms. Bing that they did a final vote on this earlier in this meeting and it was approved unless the Commission wants to reconsider.

Ms. Bing stated that there is no public boat ramp and she got here at 9:15 a.m. to testify at 9:30 a.m.

Acting Chairman Stuker advised that the schedule is tentative, and they can meet and have any of the items come up at any time. There is a note at the bottom of the agenda that says this. We do go in the order. He is sorry that she was not here and they can take that into consideration. If the Commission wishes to reconsider the action taken earlier, they can based on your comment. If not, you can file or request to talk about it at a different meeting. If this does not work this year and there are too many problems, the

Department will take a look at it and take public comments in regard to how it was working. He is sorry she was not here at that time.

Ms. Bing asked that they take into consideration.

## **9. Amendments to Administrative Rule Regarding the Bitterroot River Commercial Use Permit Restrictions, R2- Final**

### **Background**

Based on information collected during the 2018 season and feedback from river users, the department is recommending amending the Bitterroot River Commercial Use Permit Restrictions rule (ARM 12.11.6302) to change the word “floats” to “launches” and provide a definition of “launch.” In addition, the department is proposing the correction of a drafting error that is consistent with the intent of the citizen advisory committee’s 2017 recommendations. The correction would provide a timeframe from June 1 through Sept. 15 for the launch restriction per section of river for commercial use permit holders, instead of the restriction being year-round. The commission is also proposing to amend the Review of River Recreation Rules for Bitterroot River (ARM 12.11.6306) to reflect the correct starting year that the five-year review is to occur, 2022 instead of 2024. This will allow for four seasons of data collection.

### **Public Involvement Process & Results**

Public comment on the proposed amendments began on Feb 22 and ended Mar 22. There was a public hearing on Mar 19 in Hamilton. FWP received 140 comments (116 written comments via email, mail and in person, and 24 people testified at the public hearing), with 71% in favor of the proposed amendments, 24% opposed to the amendments, and 8% not specifying support or opposition to the proposal. The themes offered in the comments are presented in the attached comment summary.

### **Alternatives and Analysis**

1. Adopt the amendments which would change “float” to “launch”; provide a definition for “launch”; and correct the drafting errors. This would allow commercial users to spread out on the river and would ease congestion at access sites. 2. Do not adopt amendments.

### **Agency Recommendation & Rationale**

The department recommends adopting the rule amendments. These amendments would allow commercial users to spread out and would ease congestion at access sites. The amendments would not affect the permit system and cap, non-commercial days or wade-only sections that have been provided in the 2017 decision.

Eileen Ryce, Fisheries Administrator, stated that she would like to thank all that made the kind comments about myself and my staff. We worked Very hard on the program and guide and it is nice to hear that it was appreciated. Commissioner Colton’s comment about anxiety and full moons, the only meeting that she checked the moon schedule on was the Commission meetings. The Bitterroot River Commercial Use Permit Restrictions in Region 2 will be handed over to Don Skaar, Habitat and Access Bureau Chief.

Don Skaar, Habitat Access Bureau Chief stated the if you recall we came to you in February of proposing this at the same time. Our changes based on information that was collected during the 2018 season and feedback from river users from the effectiveness of the first year of that rule. Basically, those changes were to change the word float to launches and to stipulate a period where the floats were restricted June 1 to September 15. Also, at your request at the February meeting to change the proposed rule from the review period to 2022 from 2024. Those were the changes that were put out to the public.

Public comment period went from February 2 to March 22. We received 140 comments. Seventy-one percent were in favor, 24 percent were opposed, and eight percent not specifying preference. Based on that response, we continued to propose these rules as final. He would ask of the Commission’s approval of that. Pat Saffold in on standby if we have any regional questions. In your packets you should have a summary of the draft rule and the public comments.

**Motion: Commissioner Brower moved, and Commissioner Aldrich seconded the Fish and Wildlife Commission adopt the proposed amendments to ARM 12.11.6302 changing “floats” to “launches”; provide a definition for “launch”; provide a timeframe from June 1 to Sept. 15 for the launch restriction per section of river for commercial use permit holders; and adopt the proposed amendment to ARM 12.11.6306 to reflect the correct year that the five-year review is to occur, 2022 instead of 2024.**

Commissioner Byorth asked if the change of definition from float to launch change the conditions on the ground for commercial use.

Mr. Skaar answered that it does. When it was under float, it restricted the float that was the time the boat could be in the water between one of four sections of the water. With launch, they can put the boat in anywhere and go through the entire commercial

use area. The launch is also defined now. The change was made when the rule was originally developed there was some confusion over the citizens advisory council and the confusion as to whether or not to use float or launch. The review period they went through they chose the best word that overall had the best recognition and what that meant for users out there. The definition is now in there so that makes clear what will be allowed. The end result is that it is allowing for the outfitters to float through more sections of the river. This is something that they desired particularly high water where you are moving quickly. Previously, what they were restricted to was some pretty short trips.

Commissioner Aldrich stated that he thought that was well answered.

Acting Chairman Stuker advised that he did not get a chance to go over everything. He found out later yesterday that he was going to be chairing the meeting today. He is going to rely on Director Williams and the chief legal council for assistance. He is going to try to err on the side of caution. He believes there should be public comment on this.

Public comment.

Mike Hanson, Bitterroot Valley, stated that he is a fifth generation Bitterrooter. He owns property on the west fork. We have very deep roots on the west fork. He has been fishing this area since he was six years old. His family bought property here in 1968. He has been an avid hunter and fisher ever since then. He has seen the progression of the river for fifty years or more.

He has an objection to changing the rules. The first thing is that he believes that the general public was not well represented in this entire process. He asks the Commission to look at the list of the people that were on the CAC. You don't find any plumbers, electricians, loggers, truckers, or any of the regular guys that work every day. He feels they were highly under represented. He will give credit for the fact there were a lot of meetings. He was only able to make a few of them. The only reason that he can live on the west fork now is because it is family property that was bought in 1968. If you want to be in the west fork now you better have a million dollars plus to live there.

When he looked at this whole process, it started out as 23 letters to the Commission that were of people and landowners that were upset that there were a lot of boats going by. The Department sent out a poll and was astounded that you got a 90 percent return rate on it. Out those people, 75 percent said there were too many boats and they had stopped fishing or drastically curtailed their fishing. The whole process did only four things. It put a cap on outfitters. It did not put a cap on the days or the guide days. It just put a cap on the outfitters. It essentially did not put a cap on the outfitters as we started off with 36 and ended up with 53 on the main stem. We ended up with 26 on the upper west fork. No guide or outfitter lost a single day. The Department's figures say that 2016 until now, that we have had a significant increase in the boat traffic both commercial and private use.

The second one was they broke it into four sections. The committee was heavily weighted with guides or outfitters. They basically drove the whole problem. But they are the ones that picked the four sections. Then, you out four days that singled out each day of the week for noncommercial use. Section one was wade fishing only on Fridays. Where are all the working guys on Fridays? They are working. The last thing was they limited two boats per outfitter per section. What this rule change does is completely do away with the fourth portion of what it was.

An outfitter can put boats in at the beginning of the Job Corps in section three. They can put three boats in at the beginning of Appleberry section two. Then, they just have to make a short trip up to Canoe and 30 minutes later they have four boats in section two. Four hours later they have six boats in section three. The guides and outfitters got everything they wanted. The person that have to wade fish didn't get anything. If the regular guys out there have to wait for 2022. Then the guides and outfitters should have to wait that long too.

Another thing that nobody talks about is the habitat destruction. He just visited with FWP, the Bitterroot Conservation District, and the flood plain manager of the Forest service to talk about all of the trees that the floaters come through and cut out in the upper section. Nobody talks about it. We are trading good habitat for bad habitat. We have lost a lot of it. He is opposed to this change. They should have to wait as long as the rest of us.

Commissioner Aldrich stated he attended the hearing Hamilton and there were some good thoughts that came forward. The one thing that we can rely on is that Region 2 and the Fisheries people are watching closely what happens. Otherwise, we would not of been where we were in the implementation of the changes that were recommended. Another year of evaluation can be looked at. If something appears that wasn't anticipated when this rule change was proposed, then we can deal with it. But right now, he thinks that it is ready to go.

*Motion passes 5-0.*

#### **10. Glendive Chamber of Commerce & Agriculture Paddlefish Grant Committee, R7- Final**



## **Background**

Montana statute (MCA 87-4-601) allows anglers to donate roe (eggs) from legally taken paddlefish from the Yellowstone River (Glendive to North Dakota state line) to a Montana nonprofit corporation to process, market and sale as caviar. In 1990, the commission selected the Glendive Chamber of Commerce & Agriculture as the nonprofit corporation, and the FWP has renewed the Chamber's permit since. The revenue generated from the Paddlefish Roe Donation Program is divided between the Chamber (70%) and the FWP (30%). The Chamber's share funds the paddlefish grant program, which finances historical, cultural and recreational projects. The department's share benefits paddlefish management and research. Law requires the commission to annually appoint the Paddlefish Grant Committee (PGC), to solicit and review grant applications and fund projects. By statute, the PGC must consist of one member of the nonprofit organization, two area local government representatives, and two representatives of area anglers (see Chamber's recommendation letter). The committee is also required to notify the commission of its actions.

The Chamber recommends that the commission appoint the following individuals to the 2019 Paddlefish Grant Committee:

- Mike Roe—Glendive Area Chamber of Commerce and Agriculture
- Kevin Dorwart—City of Glendive Director of Operations
- Tim Mort—Dawson County Fire Warden
- Al Aldinger—Retired Contractor
- James Thielman—Thielman Oil Productions Services, Inc. in Glendive

## **Public Involvement Process & Results**

Public involvement consists of presenting this recommendation to the commission in a public forum.

## **Alternatives and Analysis**

The commission could revoke the permit if the Chamber has violated the permit conditions or is unable to continue administering the program. The commission could also ask for a new list of potential grant committee members. Either of these choices would delay implementation of the program in 2019.

## **Agency Recommendation & Rationale**

The department is prepared to extend the Chamber's permit for 2019. The department recommends that the commission approve the advisory committee recommended by the Chamber.

Eileen Ryce, Fisheries Administrator stated this is an annual item that we bring in front of you. Statue allows anglers to donate paddlefish roe to a nonprofit for sale as caviar. The current nonprofit permitted for this purpose. Caviar revenue is split between the Chamber and the Department 70 percent to 30 percent. Statue requires the Commission annually appoint the paddlefish grant committee to solicit, review, and award grants funded by the caviar revenue. The grant committee comprised of one member from the nonprofit to local area government representatives to local anglers.

The Chamber recommends the following members for the committee: Mike Roe, Glendive Chamber of Commerce, Kevin Darwart, City of Glendive Director of Operations, Tim Mort, Dawson County Fire Warden, Al Aldinger, and James Theilman who are local anglers. The Department recommends that the Commission approve the advisory committee recommended by the Chamber.

**Motion: Commissioner Colton moved, and Commissioner Brower seconded that the commission approve the advisory committee members recommended by the Glendive Chamber of Commerce.**

Commissioner Colton stated he had a question about revenue. If it has been dropping off in the last few years with the caviar. Ms. Ryce stated that she would refer that to Region 7. Mike Baccus can answer that question better.

Mike Baccus stated the price worldwide for caviar is there is more product out there from Asia. The price per pound that has been driving this has softened up the last couple of years. The quantity of caviar that has been collected has been generally staying about the same. It's about supply and demand. There has been a reduced price in the last couple of years.

Commissioner Colton asked about independent contractors coming in and processing the caviar as well as paying for it to some degree.

Mr. Baccus stated that this is a bit of a challenge every year, but they are always able to find someone to help out with the program.

Commissioner Colton wanted to thank the folks for serving and it is a good program. He still does not have a paddlefish pin. He has wanted one for ten years. Does anyone have one they want to give away that would be great. Caviar has dropped \$500,000 a ton. That is a big price drop. He hopes that this continues to be viable. He appreciates the contractors.

Commissioner Brower wanted to know what some of the grants went towards. He saw that one went to a school. He was curious.

Ms. Ryce advised that most grants go towards local things such as baseball fields, school programs, and Region 7 probably has a better list than she does.

Mr. Baccus stated there is a summary of where the grant money goes. They can provide a copy to you. Most of it goes to youth programs, school functions, sporting events, park programs, and it distributed along a large spectrum of things.

No public comment.

*Motion passes 5-0.*

## **11. Biennial Closure of White Bear Fishing Access Site, R4- Final**

### **Background**

White Bear FAS is located on the south edge of Great Falls on the Missouri River. The site promotes unsavory activities from June to September, such as under-age use of alcohol, illegal drug use, violent behavior, public disturbance, vandalism and litter. This activity has caused numerous disturbances with neighbors and other site users and requires a high law enforcement presence and high demand on maintenance resources. Neighbors have expressed concerns about their safety and security because of the unlawful activities at the FAS. The commission closed the site from June to September in 2015, 2016, 2017 and 2018 to eliminate this type of behavior while a long-term solution to trade the site was being explored. Site closures have eliminated unlawful activity at the site. When the closure was not in place in May-June 2016 the previous problems quickly returned, and the problems ceased after adopting a closure in July 2016. Presently the department is continuing to identify options for a possible trade.

### **Public Involvement Process & Results**

Both before and after the closures the public made frequent reports and complaints about users at the site. The neighbors approached the commission in September 2014 during the open-microphone session and raised concerns about their safety. The public commented during the 2015, 2016 and 2017 seasonal-closure processes. Previous public comment generally supported closing the site; however, there were a small portion of commenters who supported keeping the site open. FWP staff meets with the homeowner's association frequently to address complaints and concerns for safety. The public continues to contact the department through direct phone calls, TIPMONT and county law enforcement.

### **Alternatives and Analysis**

The commission could institute a seasonal closure or leave the site open. Leaving the site open substantially impacts FWP and county law enforcement resources as well as FAS maintenance resources. Instituting a seasonal closure has proven to inhibit unlawful activities at the site.

### **Agency Recommendation & Rationale**

FWP recommends a seasonal closure from May 31, 2019 through Sept. 3, 2019 and from May 29, 2020 to Sept. 7, 2020. The department will continue to search for a long-term solution for trade or disposal of the site.

Eileen Ryce, Fisheries Administrator stated this has been an annual event since 2015 after the public brought their concerns to the Commission at the September 2014 meeting. This site is located on the south edge of Great Falls on the Missouri River. During the summer months the site is prone to unsavory activity including illegal drug use, violent behavior, and general public disturbance. The Department continues to explore long term solutions including assessing potential land trades.

The public and especially the neighbors, have supported the seasonal closure which has resorted in the elimination of the unsavory activities. The Department is concerned that leaving the site open during the summer months will result in the return of the unlawful activities which occurred 2016 when the site remained open during June.

In addition to the concerns of public safety, leaving the site open substantially impacts enforcement and maintenance resources. The Department recommends a seasonal closure from May 31, 2019 through September 3, 2019 and from May 29, 2020 through September 7, 2020. The Department will continue to pursue long term solutions for this.

**Motion: Commissioner Colton moved, and Commissioner Brower seconded that the commission implement a seasonal closure of the White Bear FAS from May 31 through Sept. 3 and from May 29, 2020 to Sept. 7, 2020.**

Commissioner Colton stated he has been involved with this for a bit and as many of you have. It is tough. We never want our fishing access sites to become something of a nuisance. We are not particularly equipped to handle this with the wardens and resources that we have. We need to continue to see if we can find a way to adjust ownership of this particular access site. Any partnership that we could facilitate with the city of Great Falls would be great. He knows that is being worked on, but we need to continue to facilitate that. Right now, we have a fishing access site that is unusable.

Acting Chairman Stuker stated he echoed what was said. It would be great if we could make a trade to get another fishing access site in a different location that would not have the same problems.

*Motion passes 5-0.*

## **12. Little Muddy Creek Fishing Access Site Easement, R4- Final**

### **Background**

Little Muddy Creek FAS is a 22-acre site located on the Missouri River a short way downstream from the community of Cascade. The property is owned by the DNRC School Trust Division and has been leased as an FAS since 2007. Topographical features as well as a very shallow shoreline limit angling use primarily to wade fishing. Development consists of a small parking area, vault latrine, signage, and fencing. DNRC recently appraised the property value of the site at \$66,000 or \$3,000-acre. Rather than continue leasing the site FWP proposes to purchase a permanent easement from DNRC. The purchase of an easement will provide FWP a perpetual interest in the property that is no longer subject to market fluctuations and annual escalator increases.

### **Public Involvement Process & Results**

The EA was advertised for 30 days in the Great Falls Tribune and the Helena Independent Record newspapers as well as on FWP's website in Jan 2019. A total of nine comments were received: three people were opposed to FWP spending money to maintain or manage this site; two comments were neutral; and four were in favor of the proposed action. All three who were opposed to it expressed that the site should be closed to public access and stated they felt the money would be better spent elsewhere. One person simply inquired if the site would include access for boats with trailers and another referred to improved access on the Sun River, not the Missouri River where this site is located. The three proponents supported it as a fiscally responsible action that would secure public access for now and into the future.

### **Alternatives and Analysis**

Only the Proposed Alternative and the No Action Alternative were considered. There was no other alternative that was deemed reasonably available or prudent. Neither the Proposed Alternative nor the No Action Alternative would have significant negative environmental or potentially negative consequences.

### **Agency Recommendation & Rationale**

FWP recommends that the commission approve the department to acquire a permanent easement as opposed to a lease on the Little Muddy Creek FAS. It offers the advantage of paying a onetime fee based on current market values and would eliminate continuing to pay future lease fees for an indefinite period of time based on market fluctuations and continued reappraisals of the property.

Eileen Ryce, Fisheries Administrator, stated Little Muddy Creek FAS is a 22-acre site located on the Missouri River near Cascade. The site has been leased from DNRC since 2007. FWP proposes to purchase a permanent easement from DNRC instead of paying for an annual lease. DNRC recently appraised that property for \$66,000 or \$3,000-acre. The purchase of the easement will be more economical.

During the public process, nine comments were received. Three were opposed and expressed a preference of closing the site and using the funds elsewhere. Four were in support of securing the access in a fiscally responsible manner. The two remaining comments were not related to the Little Muddy Creek FAS.

The Department recommends that the commission approve the department to acquire a permanent easement as opposed to a lease on the Little Muddy Creek FAS.

**Motion: Commissioner Brower moved, and Commissioner Byorth seconded to approve FWP's request to acquire a perpetual easement from DNRC in place of a lease on the Little Muddy Creek FAS.**

Commissioner Colton wanted to know if this goes into the land banking system of DNRC or is it separate?

Ms. Ryce stated it goes into the DNRC School Trust Fund. The property is owned by the school trust division of DNRC.

Commissioner Colton stated he was trying to figure out how to get FWP's \$66,000 back somehow.

Commissioner Aldrich added that it would have to go back to the actual acquisition of the properties equal or larger.

Commissioner Colton thought so.

Director Williams stated it comes back to us in the form of general fund and government going into the school trust fund. She thinks that this is an exciting to have a perpetual solution, so we don't have to worry about this all the time.



Acting Chairman Stuker stated that based on the comments that this is not far from White Bear FAS. There was at least one comment that brought up safety concerns. It was brought up that someone stopped at a house at night and they are worried that if we do develop this that it will turn into another White Bear. Can someone address this?

Gary Bertellotti, Region 4 Administrator, stated that Little Muddy is quite away from White Bear. It is also very open and can see everything from the road. White Bear is a very wooded area. The criminal element at White Bear that we have seen has been that they can hide from view. This area does not have the access close to Great Falls. His belief is that we would not see that same types of situations. We have looked at ways to develop this for access for smaller boats. It is not conducive to large development because it floods in the lowers area. Every year ice jams take out everything and development is limited to the upper area.

No public comment.

*Motion passes 5-0.*

### **13. Pig Farm Fishing Access Site Lease, R3- Final**

#### **Background**

The proposed Pig Farm FAS is located along the Yellowstone River on a parcel of Montana Department of Transportation land approximately 13 river miles downstream of Livingston. The next upstream public access site is Sheep Mountain FAS. The silt deposition at Sheep Mountain FAS has created a land barrier between the boat ramp and the river making it impossible to launch boats there during the majority of the float season. The proposed MDT parcel would provide an alternate location for boat access to the Yellowstone River. A pioneered access already exists at the location but there is no formal agreement with MDT for this activity. This parcel is also currently being leased for grazing by the adjacent landowner. Initial discussions with the landowner and MDT representatives have been favorable to developing a more formal access at this site. The landowner has expressed his desire for signage that would direct people to the FAS, due to a long history of the public coming to his residence looking for access to the river. The remaining issue still to be resolved is the at-grade railroad crossing. FWP and Montana Rail Link representatives will meet to discuss the safety concerns of formalizing a vehicle crossing at this location. A diagnostic review including representatives from FWP, MDT, and Rail Link will be conducted to determine the level of improvements and protection that will be required at the crossing. Montana Rail Link has committed to paying for the surfacing improvements. FWP will be responsible for the cost of upgrades to the crossing as determined by the diagnostic team.

#### **Public Involvement Process & Results**

An Environmental Assessment was prepared and released for public comment from Dec. 21 through Jan. 18. Only one comment was received. The commenter stated that "... we all know that the use on the Yellowstone seems to increase every year, and the more FAS' there are, the better it is to help get boats in and off the river and maybe spread out the usage ..." This same commenter said, "my only negative comment is the name doesn't sound great" and suggested that we call it Highland Livestock FAS in consideration of the neighboring landowner. Since the name "Pig Farm" is used locally for this pioneered site, continuing to use that name is in keeping with the department's naming policy that states "the most important criteria in naming a site is to use a name that is presently used, if at all possible."

#### **Alternatives and Analysis**

The proposed action will provide boating access that has been lost at the upstream Sheep Mountain FAS. No other alternatives were evaluated.

#### **Agency Recommendation & Rationale**

Providing public access to the Yellowstone River at this location will enhance opportunities for boating and angling in this reach of the river. FWP recommends the department obtain a Recreational Use Permit from MDT and continue negotiations with Montana Rail Link to improve the at-grade railroad crossing.

Eileen Ryce, Fisheries Administrator stated that this a final and a pioneered access already exists at the location but there is no formal agreement with MDT for this activity. Discussions took place between MDT and the current landowner have been favorable. Issues remain to be resolved between Montana Rail Link in relation to the upgrade the rail road crossing. A meeting with the Department and Montana Rail Link is scheduled to occur to discuss safety concerns related to formalizing vehicle crossings.

During the public comment period, only one comment was received. The comment was in favor of the lease with MDT. It was also not in favor of the name of the proposed FAS site. The name Pig Farm was used locally for an existing pioneer site. Continuing to use that name is consistent with policy which encourages the use of names that are presently used. FWP recommends the department obtain a Recreational Use Permit from MDT and continue negotiations with Montana Rail Link to improve the at-grade railroad crossing.

**Motion: Commissioner Byorth moved, and Commissioner Colton seconded to approve FWP's request to acquire a Recreational Use Permit from the Department of Transportation.**

Commissioner Byorth stated he is an avid floater of the Yellowstone River. Although the site is rough around the edges, it is a critical site for distributing pressure up and down the Yellowstone River.

Commissioner Colton stated that this is an important spot and commend everyone for acquiring a permit on a pioneer site. He thinks that it is appropriate to keep the name. It is what everyone calls it. It is a fun name. He doesn't want something to happen over calling it something else.

No public comment.

*Motion passes 5-0.*

#### **14. Dailey Lake Fishing Access Site Easement, R3- Final**

##### **Background**

Dailey Lake FAS is generally located in the Paradise Valley between Livingston and Gardner. The site includes 242-acres of land owned in fee title by the FWP and 122-acres of DNRC leased property on the north end of the lake. The leased property is owned by the DNRC School Trust Division and has been leased by FWP since the late 1980s or early 1990s. FWP has developed a portion of the DNRC leased area for camping that also includes a boat ramp and dock. DNRC recently appraised the property value of the site at \$490,000, which through DNRC's lease fee calculation formula increased the annual lease fee to FWP from \$8,870 to \$19,611 for the first year then escalating annually to \$23,437 over the next 10 years. Rather than continue leasing the entire 122 acres, FWP will reduce its recreational footprint to 26.74 acres that encompasses only the improved camping area. Rather than leasing, FWP will purchase a perpetual easement from DNRC. DNRC's internal appraisal of the property indicates a value of \$5,000 per acre putting a value of the 26.74-acre easement property at \$133,700. The purchase of an easement will provide FWP a perpetual interest in the property that is no longer subject to market fluctuations and DNRC's annual escalator increases.

##### **Public Involvement Process & Results**

The Environmental Assessment was prepared and released for public comment for a period of 30 days, ending March 29. The EA was advertised in the Livingston Enterprise and the Helena Independent Record. One comment was received. The commenter stated that "...it looks like the best plan at this time, unless the DNRC wanted to trade or sale the land to FWP..."

##### **Alternatives and Analysis**

Only the Proposed Alternative and the No Action Alternative were considered. There was no other alternative that was deemed reasonably available or prudent. Neither the Proposed Alternative nor the No Action Alternative would have significant negative environmental or potentially negative consequences.

##### **Agency Recommendation & Rationale**

FWP recommends that the commission approve the department acquiring a permanent easement as opposed to a lease on the Dailey Lake FAS. It offers the advantage of paying a onetime fee based on current market values and would eliminate continuing to pay future lease fees for an indefinite period based on market fluctuations and continued reappraisals of the property.

Eileen Ryce, Fisheries Administrator stated the site includes 242-acres of land owned in fee title by the FWP and 122-acres of DNRC leased property on the north end of the lake. A portion of the leased areas is developed for camping, boat ramp and dock. He Department was recently informed by DNRC that the annual lease and fee would increase from \$8,870 to \$19,611 for the first year then escalating annually to \$23,437 over the next 10 years.

The Department's recommendation is rather than continue leasing the entire 122 acres, FWP will reduce its recreational footprint to 26.74 acres and to acquire perpetual easement instead of an annual lease. The 26.74-acre easement is valued at \$133,700. There was one comment that was in favor of the proposal.

**Motion: Commission Brower moved, and Commissioner Aldrich seconded to that the commission approve FWP's request to acquire a perpetual easement from DNRC in place of a lease on the Dailey Lake FAS.**

Commissioner Byorth wanted to know if the reduction in acreage had an impact on actual use of the site.

Ms. Ryce answered that the reduction of the acreage to a little over 26 acres includes all of the developed area. It is her understanding that the rest of the acreage would still belong to DNRC and the public would still have access to it. The 26 acres includes the camping area, boat ramp, docks, and is essentially the area that we manage.

Commissioner Brower stated that it doesn't take a lot of math to see the saving in the future.

Commissioner Aldrich stated that from experience it is a place that you can get to all year long and he has. It is a great opportunity in that valley.

Public Comment.

### **Helena Region**

Nick Gevock, Wildlife Federation, stated that this is growing trend for permanent leases. There is a bill coming through the Legislature for permanent easement on Flathead Lake. That is significant. We think that this is a good use of hunter angler dollars. We do support this.

**Motion passes 5-0.**

## **15. Bridge 51 Fishing Access Site Lease, R5- Final**

### **Background**

This is a high-priority access point on the Yellowstone River providing strategic access where there is currently 13.2 miles between two existing FAS. This river reach has a good trout fishery and receives a large amount of public use from both anglers and recreational floaters. In 2017 when this project was initially brought to the commission for endorsement, FWP's intention was to acquire a privately owned 13.45-acre adjacent property. However, negotiations with the landowner were not successful. FWP subsequently contacted Montana Rail Link representatives who agreed to granting FWP public access via the railroad right-of-way. Although the public pioneered an access many years ago at this location, a formal agreement to use the right-of-way was never established with the railroad. FWP is currently completing a permit application with Montana Rail Link to secure legal access. Rail Link representatives have stated that there will be a nominal annual lease fee, but the exact amount hasn't been established. Development of the site will include grading and graveling the road, a vault latrine, defined parking areas, signage and fencing. The public will continue launching off the gravel bar as they have in the past.

### **Public Involvement Process & Results**

The EA was advertised in the Billings Gazette, the Big Timber Pioneer, the Stillwater County News, the Helena Independent Record and FWP's website for public comment from March 1 through March 31. Three comments were received were two in agreement and one expressing some opposition to adding another FAS when some others are in need of maintenance. The comments and responses are attached.

### **Alternatives and Analysis**

Only the Proposed Alternative and the No Action Alternative were considered. There was no other alternative that was deemed reasonably available or prudent. Neither the Proposed Alternative nor the No Action Alternative would have significant negative environmental or potentially negative consequences.

### **Agency Recommendation & Rationale**

FWP recommends the commission approve the department's request to secure a permit from Montana Rail Link for the purpose of developing an FAS and establishing legal public access through Montana Rail Link property to the Yellowstone River.

Eileen Ryce, Fisheries Administrator stated that this is a priority access site on the Yellowstone River. It provides access where there is currently no access for over 13 miles. The public has pioneered an access point location, but no formal agreement has been established with Montana Rail Link. Montana rail Link has indicated there will be a nominal yearly lease fee. Development at this site will include road improvements, vault latrine, parking areas, signage, and fencing.

Three comments were received. Two were in support of the project and one was concerned about maintenance of an additional FAS site. The Department recommends that the Commission approve the request to secure a permit from Montana rail Link for the purpose of developing a fishing access site on the Yellowstone River.

**Motion: Commissioner Colton moved, and Commissioner Brower seconded to approve FWP's request to finalize the permit process that will establish an FAS within the Montana Rail Link right-of-way.**

Commissioner Colton asked if Barb Beck would comment on our ability to supervise and check up on this site. It is in a weird spot. He has used it many times. He is glad that we are going to have some development there. Are you comfortable that Region 5 has the resources to check in this place and keep it maintained? Its usage is probably going to increase a little.



Barb Beck, Administrator, Region 5 stated the two things that she heard was enforcement and fishing access site. As part of the system of fishing access sites, it fits in the category of needing maintenance across the whole system. As you know there has been some struggling with that. She thinks that they are on a good path there. The division had appropriate plans for the site and we can maintain it. From the enforcement standpoint we have a warden located in Columbus and with the change in the Legislature to reduce the requirement to 30 percent of PR funding. This will help free up some of our enforcement time to do more work on the access sites which there is a huge demand for. It's not something that a warden would have to do every single day. If we were to have problems. That could get attention or routine patrol.

Acting Chairman Stuker stated he is uncomfortable with this. He supports it but does not know what the price is. That is where he is a bit uncomfortable as he hates voting for something not knowing what the cost is. Are there any figures that you can give us that would ease the concern on his part?

Ms. Ryce stated Mr. Skaar may have a better idea on the cost.

Don Skaar, Fisheries Habitat and Access Bureau Chief stated they do not have a cost at the moment he was sorry to say. We can get that information for you and normally they are not trying to extract a lot of money out of us when it comes to these kinds of agreements. We don't have a figure for you right now. Our work with the railroads typically indicates a pretty good deal. Usually they are making sure we get good access on the cheap. That has been our experience in general.

Acting Chairman Stuker stated that his question may go to the Director or Legal. If we approve this today, we are basically giving an open check book. So, is there a consideration given possibly by the Department if they think the amount given is too high, it would come back to us before doing the purchase?

Becky Dockter, Chief Legal Counsel stated yes, it would depend on what you would consider as too high. The Department would have to come back if they feel they should. If your direction is to come back if you feel it's too high to get final approval, then that is what they could do. Does that answer your question?

Acting Chairman Stuker stated that did answer the question. He will leave it up to the other Commissioners to make that decision.

No public comment.

Commissioner Colton stated that the Railroad is just asking for a nominal fee and a legal agreement. They are not going to hold us up on this. We have other agreements with them that are reasonable. He is putting faith in the Department and the good folks at Rail Link to get this worked out. Is this the final name? Bridge 51?

Ms. Ryce advised that was the name.

Commissioner Colton stated that everyone just calls it Two Bridges. Fine with me. The revolt he was talking about could happen.

Commissioner Aldrich stated that the way the motion is stated it is the prerogative of the Department if this became financially unwise to do, they could bring it back to us to review. He trusts the people to spend our dollars appropriately. This is the type of expenditure that we would like to see continue.

Director Williams asked if Ms. Ryce or Mr. Skaar about the name switch from Two Bridges to Bridge 51?

Ms. Beck answered that sometimes it is also called Twin Bridges. There is some confusion if it were called Twin Bridges if that would confuse it with the Twin Bridges of Region 3. Certainly, we would be open to a change in name.

Commissioner Colton stated that it is really known as Two bridges. The bridges are not twins. One is a railroad bridge and the other is an interstate bridge. I want to name it Two Bridges.

Acting Chairman Stuker advised Commissioner Colton to amend the motion.

Commissioner Colton amended the motion to establish the lease and name it the Two Bridges Fishing Access Site.

**Amended Motion: Commissioner Colton moved, and Commissioner Brower seconded to approve FWP's request to finalize the permit process that will establish an FAS within the Montana Rail Link right-of-way and to establish the lease and name it the Two Bridges Fishing Access Site.**

*Amended motion passes 5-0.*

Commissioner Byorth wondered if the Department could come back and report actual cost at some later date.

Ms. Ryce stated they would be more than happy to do that.

*Amended motion passes 5-0.*

#### **16. 2019 Migratory Bird Regulations/Seasons/Closures – Final**

##### **Background**

Migratory bird hunting regulations pertain to cranes, snipe, doves, ducks, geese, swans, and coots, which are managed on a flyway basis. Montana is in two flyways, with roughly the eastern half of the state in the Central Flyway and the western half in the Pacific Flyway. We must adhere to federal season frameworks established by the U. S. Fish and Wildlife Service (USFWS) in cooperation with the flyway councils. States may be more conservative than these frameworks but may not exceed them. We look for final approval in April to meet USFWS deadlines for season selections. Other than normal calendar rotation and the exception noted below, all aspects of the 2018-19 season are to remain in place.

- The daily pintail bag limit would go from two to one in both flyways in accordance with the federal framework.

Proposed dates for ducks, coots, geese, and swans:

Pacific Flyway (PF) - Ducks, coots, and geese: Sept. 28 – Jan. 5 and Jan. 11-15 (closed five days, Jan. 6-10) (except scaup season closing Dec. 22); Swans: Oct. 5 - Dec. 1

Central Flyway (CF) - Ducks and coots: Zone 1 – Sept. 28 – Jan. 2; Zone 2 – Sept. 28 – Oct. 6 and Oct. 19 -Jan. 14 (closed for 12 days, Oct. 7-18). A bonus teal season Sept. 28 – Oct. 6 in the CF will allow hunters to take two additional blue-winged teal.

Central Flyway - Geese - Zone 1 – Sept. 28 – Jan. 5 and Jan. 11-15 (closed five days, Jan 6-10); Zone 2 – Sept. 28- Oct. 6 and Oct. 19 – Jan. 22 (closed 12 days, Oct. 7-18); CF Tundra swans: Sept. 28 – Jan. 2 (both zones, no split season).

Duck, coot, and goose daily and possession limits for both flyways are proposed to be the same as in 2018-19. The special two-day Youth Waterfowl Season will be Sept 21-22 in both flyway parts of the state.

Proposed season dates for “webless” migratory birds:

Mourning doves: Sept. 1 – Oct. 30

Common snipe: Sept. 1 – Dec. 16

RMP sandhill cranes (all special drawing permits): Sept. 1 (a Sunday) – Oct. 27 (57 days).

Mid-continent sandhill cranes in CF (over-the-counter permit): Sept. 28 – Nov. 24

##### **Public Involvement Process & Results**

Public comment will be heard during this meeting.

##### **Agency Recommendation & Rationale**

FWP recommends that the commission approve the proposed 2019-20 migratory bird regulations as presented by FWP.

John Vore, Game Management Bureau Chief, Wildlife Division stated he wanted to welcome Commissioner Byorth, Commissioner Brower, Commissioner Aldrich and Colton. Montana is in two flyways, with roughly the eastern half of the state in the Central Flyway and the western half in the Pacific Flyway. Migratory bird hunting regulations pertain to cranes, snipe, doves, ducks, geese, swans, and coots. He stated that they are not proposing any changes from last year except to reduce the pintail bag by one going from two in both flyways in accordance with the federal framework.

The State of Montana can be more conservative than the federal guidelines but not more aggressive. That is the only change. In your packets you will find the season dates for the different species. Are there any questions?

**Motion: Commissioner Brower moved, and Commissioner Aldrich seconded the commission adopt final 2019-20 migratory bird regulations as presented by FWP, and that all other aspects of the 2018-19 season except for normal calendar rotation date changes are adopted.**

No Commission Comment.

No public Comment.

*Motion passes 5-0.*

#### **17. 2019-20 CSKT Pheasant, Partridge & Waterfowl Hunting Regulations – Endorsement**

##### **Background**

The Confederated Salish and Kootenai Tribes (CSKT) and the state of Montana have entered into a cooperative management agreement on the Flathead Reservation that provides for presentation and approval of Tribal pheasant, gray partridge and waterfowl

season frameworks to the Fish & Wildlife Commission. FWP is included in the development of Tribal waterfowl regulations, which are set within federal frameworks in the Pacific Flyway. Tribal recommendations are first presented to the Flathead Reservation Fish & Wildlife Board, which votes on tentative proposals and opens them to general public review and comment. The board then meets for final adoption. Adopted final proposals are then presented to the Confederated Salish and Kootenai Tribal Council. The commission endorsement is subject to final Tribal Council approval. The draft *Flathead Indian Reservation Pheasants, Gray Partridge And Migratory Waterfowl 2019-20 Hunting Seasons, Shooting Hours and Limits* are included in the commission packet.

The significant differences between these Tribal regulations and current or proposed FWP regulations are:

- Tribal shooting hours are sunrise to sunset for pheasant and gray partridge for the entire season. Waterfowl shooting hours are sunrise to sunset Sept. 30 - Jan. 1. From Jan. 2 to Jan. 15, shooting hours are one-half hour before sunrise to sunset, the same as FWP's.
- No hunting with falcons on the Flathead Indian Reservation.
- A requirement that only non-toxic shot be used for all game birds on the Flathead Indian Reservation.

#### **Public Involvement Process & Results**

The Confederated Salish and Kootenai Tribal process includes public comment.

#### **Alternatives and Analysis**

None considered at this time.

#### **Agency Recommendation & Rationale**

Recommend endorsement of 2019-20 Flathead Indian Reservation pheasant, gray partridge and waterfowl hunting regulations subject to Tribal Council approval.

John Vore, Game Management Bureau Chief, Wildlife Division, the Fish & Wildlife Commission. FWP is included in the development of Tribal pheasant, gray partridge and waterfowl season frameworks. Tribal recommendations are first presented to the Flathead Reservation Fish & Wildlife Board. The Board votes on tentative proposals and opens them to general public review and comment. The board then meets for final adoption.

There are a few differences in regulations between Tribal and State regulations. The shooting hours are slightly different, sunrise to sunset for pheasant and gray partridge for the entire shooting season. Waterfowl is sunset to sunrise from September 30 to January 1. Then from January 2 to January 15, shooting hours are one-half hour before sunrise to sunset, the same as FWP's. There is no hunting with falcons on the Reservation. Another requirement that only non-toxic shot be used for all game birds on the Reservation.

**Motion: Commissioner Aldrich moved, and Commissioner Brower seconded that the Fish & Wildlife Commission endorse the 2019-20 Flathead Indian Reservation pheasant, gray partridge and waterfowl hunting regulations as presented and subject to final Tribal Council approval.**

No Commission comment.

No public comment.

*Motion passes 5-0.*

#### **18. 2019 Lion Quotas – Proposed**

##### **Background**

Lion management units (LMUs), often made up of more than one hunting district, listed in the table below have proposed changes from the 2018 mountain lion quotas in Region 5. All other quotas/subquotas not listed are proposed to be unchanged from 2018 levels.

In their respective areas, the proposals address issues and concerns such as harvest opportunity; lion populations; predation, primarily on mule deer and bighorn sheep; livestock depredations; and human-lion encounters in subdivisions and campgrounds. More detailed information is found in the justification for each proposal in the commission packet.

##### **Proposed Montana 2019 Mountain Lion Quota Changes**

LMU	Current Quota	Proposed Quota
-----	---------------	----------------



HD 560

7 total with 3 female subquota

8 total with 4 female subquota

HDs 530/590

10 any legal lion

15 any legal lion

---

#### **Public Involvement Process & Results**

Area landowners, sportsmen, and FWP wardens are supportive of these proposals. All proposals have been vetted with the public in each area, and we have received no comments in opposition from landowners, sportsmen, outfitters, trappers, and city officials. No conflicts with landowners, sportsmen, or other members of the public are anticipated. Public comment will be taken at this meeting and continue through 5 p.m., May 21. Final action will take place at the commission meeting in June.

#### **Alternatives and Analysis**

Proposals may be adopted as proposed, with adjustment, or no change from 2018 as per staff justifications, public comment, and commission discussion.

#### **Agency Recommendation & Rationale**

FWP recommends approval of proposed quota adjustments with no changes in other LMUs. Rationale includes mountain lion population management accommodating human tolerance, safety, prey populations, and hunter opportunity.

John Vore, Game Management Bureau Chief, Wildlife Division stated there are only a couple of changes to the mountain lion quotas. The changes are HD 560 that has a 7 total with 3 female sub quota to an 8 total with 4 female sub quota. Hunting district 560 is in the Boulder area in Region 5. The other is for Hunting Districts 530 and 590 from 10 any legal lion to 15 any legal lion. Hunting district 590 is along the Yellowstone River. That is all the changes and everything else to remain the same. Are there any questions?

**Motion: Commissioner Colton moved, and Commissioner Aldrich seconded to approve for public comment the proposed 2019 lion quota/subquota changes as presented by FWP, and that all other aspects of the lion regulations and quotas previously approved by the commission are to remain unchanged.**

No Commission comments.

No public comment.

Commissioner Brower asked if there was a biennially adopted range.

Mr. Vore stated no, they do not.

Commissioner Colton stated for clarification even though they haven't addressed other districts if there is comment or input to be made. He thinks that they are allowed under the rules to still look at those from this tentative process to the time of final. Am I right?

Mr. Vore stated that he would look to legal counsel on that question.

Commissioner Colton stated that we are only moving the smaller districts in the event that we get some calls on movement in other districts where we have proposed no change. Since this is a tentative and out for comment we would be allowed to do that. We could take comment and possibly change that at a final vote.

Becky Dockter, Chief Legal Counsel stated that this is the time frame in which all the previous regulations come forward as a proposal to you. The ones that are presented here are the changes so the proposal for getting comment is for the whole package. If there are comments about the other portions that were not discussed here today, those can still be considered and proposed to be decided upon at the next meeting. Does that answer your question?

Commissioner Colton stated yes. He appreciates the Department looking at these and making the adjustments. The comments, our own science, and evaluation that determines if we can harvest a few more lions. That is good cooperation with users of the resource and to coordinate with them to establish the increases. Thank you.

Acting Chairman Stuker stated he would like to echo what Commissioner Colton said. He remembers when was first on the Commission, we might go two to three hours on the topic. To get it done in five to ten minutes shows how the Department is working with the stakeholders out there to come up with solutions that works for everyone. So, thank you.

**Motion passes 5-0.**

## 19. Sharp-tail Grouse Reintroduction, R2 – Final

### Background

Although sharp-tailed grouse (STGR) are classified as an upland game bird in Montana, there has been no hunting season in the western part of the state since 1948. Since 1984, restoration and conservation of STGR in western Montana has remained an FWP priority. Populations west of the Continental Divide were believed to be extirpated by the mid-2000s. FWP and partners completed an assessment of habitat quality in 2015. They found large areas of habitat in the Blackfoot, Clark Fork, and Bitterroot valleys equivalent to that available within the birds' range in north central Montana. If past habitat changes caused the original declines, then the conditions have recovered sufficiently to now support populations. If other factors caused past declines, then monitoring of transplanted birds is the only way to identify current limiting factors. STGR source populations have remained stable likely due to large landscapes of suitable habitat. Removal of up to 180 STGR annually from source populations would be minor in comparison to hunter harvest (less than 1 percent of the estimated 2017 harvest).

### Public Involvement Process & Results

FWP released a draft environmental assessment (EA) for public review on Feb. 15, 2019 and asked for public comment through March 17, 2019. FWP ran legal ads describing the proposed project, the availability of the draft EA, and the public hearing information in nine newspapers across the state. The draft EA was posted on FWP's official website and was also available at all regional headquarters and the state headquarters in Helena, and online for people with internet access or through internet services at public libraries. FWP received 52 comments and addressed issues raised in the decision notice.

### Alternatives and Analysis

The EA evaluated five alternatives. These include Alternative A, the *No Action Alternative*; Alternative B, *Reintroduce STGR to the Blackfoot Valley, Northern Bitterroot Valley, and the Drummond Area*; Alternative C, *Reintroduce STGR to the Blackfoot Valley and the Northern Bitterroot Valley*; Alternative D, *Reintroduce STGR to the Blackfoot Valley and the Drummond Area*; and Alternative E, *Reintroduce STGR to the Blackfoot Valley*.

### Agency Recommendation & Rationale

Results from several years of habitat work and population viability analyses suggest that FWP can restore and maintain three populations of STGR that have a 95 percent probability of persistence for 50 years. Reintroducing STGR to western Montana will return a native species to its former range, is recommended in the State Wildlife Action Plan, and is a priority of the Upland Game Bird Enhancement Program. FWP recommends the Fish & Wildlife Commission approve the reintroduction of STGR to western Montana.

John Vore, Game Management Bureau Chief, Wildlife Division stated they are seeking Commission approval for the reintroduction of sage grouse to western Montana. We are seeking Approval to move sharp tail grouse. You may remember that we went through an EA Process in Region 1. Chris Hammond and Alan wood were involved who are in attendance in Region 1 if there are any questions for them. The EA had gone out for public comment and it was revised somewhat. We received 52 comments to reintroduce sharp tail grouse to three areas in Region 2. Almost all of those were in full support. A few were not in full support. There was some confusion about some of the commenters thought that sharp tailed grouse were sage grouse and that is not true.

Sharp tailed grouse have never been proposed for listing nor are they listed now. There was also some confusion about sharp tail grouse not being native to western Montana and that is not true. They are native to western Montana. The EA looked at suitable habitat. It first looked at the genetic similarity that is identical between sharp tailed grouse in western Montana and those on the plains. It was originally thought that the sharp tailed grouse was Columbian sharp tailed grouse. According to the genetic work that has been done, it shows they are very closely related to the plains sharp tailed grouse. They are closely related to where we would get grouse from to do the restocking.

The EA was out for public comment. There were 52 comments. The groups that were in support of it were the Anaconda Sportsman's Club, Pheasants forever, Montana Wildlife Federation, The Five Valleys Audubon, Big Sky Upland Birds Association, Montana Sportsman Alliance, Flathead Audubon, Country Hunters and Anglers, and Bitterroot Audubon. Flathead Wildlife also supported one of the options which was option e which was not the preferred but was included in the preferred which was alternative b.

What we are asking here is for the Commission to start trapping and moving birds which could start as early as the fall of 2019. It speaks to moving anywhere from 75 to 180 birds per year which is a very small percent of the situation. We would get the birds from Regions 4, 5, 6, and 7. This is all of eastern Montana. We would only take birds from leks that have 15 or more males in attendance and would not take more than 30 percent of those birds in attendance. It would be a very light touch on the overall populations. We don't see where it would affect any of the current populations that we are talking about.

In the first year we would look to only move 75 birds. We would move 75 males as early as this fall. We trap them in the fall and bring them to the new location and let them get used to the new habitat. Once they establish leks, we would then bring in females in the following spring. The following spring would also include a few males to replace any that may have been lost over the winter.

What we are asking is permission to start trapping birds. This could be as many as five years and up to as many as 150 birds per year for five years for the next ten years. That would depend on spring weather not being right or other affluent factors that would allow us the opportunity to not trap birds in one year. It promises to be a very good project. We would be monitoring the birds very intensively to find out if there are indeed establishing a population and of that population can survive. This is all written in the EA monitoring program. Are there any questions?

**Motion: Commissioner Aldrich moved, and Commissioner Brower seconded the Fish & Wildlife Commission approve Alternative B, the reintroduction of sharp-tailed grouse into Blackfoot Valley, Northern Bitterroot Valley, and the Drummond areas of western Montana as proposed by FWP.**

Commission comment.

Commissioner Byorth wanted to know what the demise was behind the original native sharp tails in that area.

Mr. Vore stated they did not know. There had been a loss of habitat. In Region 1 in the Eureka area there has been a lot of encroachment on the habitat that was there. So, we don't know what the cause was. This effort will help us identify what may have been the cause. Habitat may have changed since then. The areas that we are looking into to put birds into have had a lot of GIS work done and on the ground verification. They checked what the habitat looks like compared to where we would get birds from east of the Continental Divide and all looks good from a habitat standpoint. It all looks good from a public standpoint. A blunt answer to your question is we don't know. He would offer the opportunity with the help of the Vice Chairman for forbearance of the folks in Region 1, Chris Hammond or Dr. Wood to address that same question.

The Wildlife Biologist for Region, stated that they really do not know what has caused the populations to be extirpated in the western section of Montana. Some of the things that we have done to make sure that the population will do as best as it possibly can. We did do the habitat verification and compared the habitat in western Montana to the habitat in eastern Montana. We found that the habitat situation was better than some of the places in the Rocky Mountain front in central Montana. That was a big thing for us. Habitat is one thing. The next step to help make sure that this project took off was to do a population viability analysis. Essentially, what we wanted to know was if we put birds on the ground in these conditions and modeled their vital rates such as survival, nest success, and those types of things in those conditions what would be the probability of success of this project?

We found that there were options for us where we could have populations that were viable. Ninety-five percent beyond the course of 50 years. This could be a minimum size of 280 birds or populations as high as 1,000 to 2,000 birds in the Blackfoot Helmsville area. In the Bitterroot area, it could be 800 to 1,200 birds. The Drummond area would be similar to that with 800 to 1,000 birds.

Commissioner Brower stated that he thought he heard that the Department was collecting them all from the east?

Mr. Vore stated yes. They would be collecting birds from Regions 5, 6, and 7 all the way across the east. We don't know of all the leks that are out there. We currently know of about 251 leks that have about 15 or males in attendance. We would not take more than 30 percent off any one lek. There are plenty of birds out there. If logistically we cannot, it would be a challenge. It would not be likely that we would take a 181 birds in any given year. We would like to take 75 to 180 birds. Taking 180 birds would have a very small impact on the population. This is less than one percent of the lowest harvest that we have had in recent years.

Commissioner Aldrich stated he lives very close to some of these areas. We enjoy living where we do and seeing all the wildlife. The airborne critters too. The grouse would be very welcome and would enjoy seeing them.

Public comment.

#### **Helena Region**

Nick Gevoek, Montana Wildlife Federation stated he really wanted to commend the Department. All the questions that he had were answered here. We strongly support this. What a stellar project. This is an example of great wildlife science. The gentleman from Region 1 had a great analysis. Mr. Vore answered the questions about Columbian sharp tailed grouse being native. Their only issue was whether or not the birds taken from any given area could with stand birds taken from populations. They answered that well he just had to say as an upland bird hunter. He has always driven through the Blackfoot Valley and wondered why there were not sharp tails there. What a stellar project and he wants to commend our conservation partners Pheasants Forever, for supporting this. They have also supported a non-native species. We support this and are excited about it. Hopefully in a few years we will have enough to have a limited season in ten years or so. Thank you.

Acting Chairman Stuker wanted to thank the Department and its partners for all the work that went into this.

***Motion passes 5-0.***

## **20. Thompson Fisher CE Amendment, R1 – Final**

### **Background**

FWP proposes to remove 1.63 acres of developed land from the Thompson-Fisher Conservation Easement (CE) and replace it with 5 acres of undeveloped, upland and riparian habitat along the Little Thompson River (Figures 1 and 2). This proposed CE amendment would resolve encroachment issues on the CE land. These encroachments are associated with Montana Department of Natural Resources and Conservation (DNRC) cabin lease sites adjacent to the CE on seven different parcels of State School Trust Land. The building encroachments include various structures or other improvements. Weyerhaeuser has agreed to remove the 1.63 acres of developed land from the easement and add 5 acres of undeveloped land that is adjacent to existing CE land, for a net gain to the easement property of approximately 3.37 acres. The 5-acre parcel to be added to the CE is currently managed by Weyerhaeuser as forestland and this proposal would ensure the parcel would be conserved and managed according to terms in the CE. No money would be exchanged to complete the proposed amendment.

### **Public Involvement Process & Results**

FWP released a draft environmental assessment (EA) for public review on Feb. 12, 2019 and asked for public comment through March 15, 2019. FWP ran legal ads describing the proposed project, the availability of the draft EA, and the public hearing information in three local newspapers. The draft EA was posted on FWP's official website and was also available at the Region 1 headquarters in Kalispell and online. FWP received four comments and addressed the one issue raised in the decision notice.

### **Alternatives and Analysis**

The EA evaluated the potential impacts of the following alternatives: 1) Alternative A: No Action – Under the No Action alternative, the developed land would remain in the CE and no additional acreage would become part of the easement area. 2) Alternative B: Proposed Action – Under the Proposed Action alternative, the Thompson Fisher CE would be amended to remove 1.63 acres of developed land and replace it with 5 acres of undeveloped, riparian and upland habitat along the Little Thompson River.

### **Agency Recommendation & Rationale**

FWP recommends the commission approve amending the Thompson-Fisher Conservation Easement to address the encroachment issue on the easement property which would successfully resolve the issue for all parties involved, Weyerhaeuser, DNRC, and FWP.

Ken McDonald, Wildlife Division Administrator stated this is a conservation easement amendment. This is a final action. After we did the conservation easement we found out there are several very small pieces in the DNRC cabin site that encroach on the private land that is in the easement that we have. It was Plum Creek that is now Warehauser.

To make sure that we have a clean easement worked with the timber company and DNRC. The proposal resulting from that to take or remove 1.63 acres on the existing easement and replace that with five new acres. The five-acres are managed forest land owned by Warehauser. They do own some river frontage so think it is a gain for conservation which is one of our desires. There were four comments. The main comment was for a more detailed map that was provided in the final EA. The decision was to proceed with this. We are asking for final approval to do this.

**Motion: Commissioner Aldrich moved, and Commissioner Brower seconded the commission approve the amendment of the Thompson-Fisher Conservation Easement as proposed by FWP.**

Commission comments.

Commissioner Aldrich stated this was an excellent modification.

Mr. McDonald wanted to give kudos to Region 1 for doing all the work to put this all together.

Public comment.

No public comment.

*Motion passes 5-0.*

## **21. Mt. Haggin WMA, Land Transfer to Montana Department of Transportation, R3- Final**

### **Background**



Western Federal Lands Highway Division of the Federal Highway Administration (FHWA) in partnership with MDT plans to improve a 4-mile section of existing paved surface of MT Highway 569 across FWP's Mt. Haggin WMA. The highway project would include resurfacing and widening the existing road prism, repairing and restoring drainage, replacing the California Creek Bridge, installing earth walls, and placing pavement markings.

Road reconstruction would include widening the existing road prism from 22-24 feet to 26 feet. This expansion would require the permanent conversion of approximately 0.90 acre of FWP land on the Mt. Haggin WMA to MDT ownership. Because FWP purchased the WMA with Land and Water Conservation Funds, Section 6(f) of the Land and Water Conservation Fund Act applies to any land conversion that occurs on the WMA. Specifically, MDT must provide replacement property to FWP to equal the approximately 0.90 acre that will be taken in this project. Since 1998, FWP and MDT have maintained a spreadsheet depicting remaining credit/debit status of all 6(f) properties across the state. This process has commonly been referred to as the "6(f) Properties Bank." It is the intent of MDT and FWP to use the existing 6(f) Properties Bank to mitigate the impacts of the 0.90 acre of 6(f) property owned by FWP that would be taken in this road project.

#### **Public Involvement Process & Results**

FWHA determined that this project, referred to as "North of Moose Creek North," qualified for Categorical Exclusion, and only a limited environmental assessment was required. This assessment was made available to the public via postings in the *Missoulian* and *Montana Standard* in June 2018. No comments were received.

FWP biologists provided input to the project design and have reviewed this environmental assessment. FWP expressed concern that the Oregon Creek culvert as designed may not maintain fish and aquatic organism passage year-round. Project engineers have addressed these concerns as adequately as possible given the structure type and have agreed to do one year of monitoring after project completion to ensure the mitigative measures produce the outcome desired. If fish passage is interrupted the first year, additional actions would be taken to maintain surface flows that would allow for fish passage.

#### **Alternatives and Analysis**

The functional alternatives of this project were analyzed and adopted by FWHA and MDT. Minimal impacts are expected to result from this project; most are temporary while construction is occurring. Benefits would include public safety from improved road conditions and replacement of the California Creek bridge and reduction in sediment flow into Oregon and California creeks with culvert replacement and bank erosion control. In terms of transfer of ownership between FWP and MDT, using the 6(f) Properties Bank appears to be the sole solution and is consistent with requirements of the Land and Water Conservation Fund.

#### **Agency Recommendation & Rationale**

FWP recommends the commission approve the permanent conversion of approximately 0.90 acre of FWP land on the Mt. Haggin WMA to MDT ownership to be applied to the existing 6(f) Properties Bank.

Ken McDonald, Wildlife Division Administrator stated the Department of Transportation has been working on a four-mile section of Highway 569 that goes through Mount Haggin WMA. In doing so there is an increase on the road width from 22 to 26 feet. That results in a loss of about 0.90 of an acre of land on the WMA. The WMA was purchased with Land and Water funds that has a requirement that any lost lands must be replaced with like property. This was something DOT recognized back in the eighties that there was going to be tweaks and adjustments to property boundaries. In 2004, they purchased a piece of property that is Shady Lane kids fishing pond in Region 1. DOT bought that and as we have these little tweaks, they apply a debit against the value of the purchase.

We are asking that the Commission approve the 0.90 of an acre reduction to the WMA and to credit this to the purchase of the pond. Any questions?

**Motion:** Commissioner Brower moved, and Commissioner Aldrich seconded the commission approve the conversion of approximately 0.90 acre of FWP land to MDT ownership on the Mt. Haggin WMA by applying these acres to the 6(f) Properties Bank.

Commission comment.

Commissioner Brower stated he wanted to commend the Department on their work on some of the projects that have to be worked out.

Mr. McDonald agreed. Fortunately, he does not have to deal with this but the guys sitting behind him do.

Commissioner Aldrich stated this is an essential modification and is well done.

Public comment.

No public comment.

*Motion passes 5-0.*

## **22. Spotted Dog WMA Grazing Lease, R2– Final**

### **Background**

FWP proposes to implement a cooperative grazing system involving selected pastures on the Spotted Dog WMA and adjoining McQueary Ranch. This proposal would provide yearlong rest from cattle grazing on 1,400-1,500 acres of a 2,100-acre pasture system—on a rotational basis—on the McQueary Ranch. In effect, this would reserve all the annual forage production on those rested private lands for elk to use in the winter. This would effectively expand the managed footprint of the WMA to include a defined portion of neighboring private land for elk. In return, cattle from the McQueary Ranch would graze one of four pastures annually, involving up to 240 animal unit months (AUMs) on 600-750 acres of the WMA. The four pastures on the WMA are contained within a 2,800-acre perimeter, involving about 8 percent of the WMA. The WMA grazing lease area would be located above elk winter range in transitional habitat where cattle grazing could enhance springtime forage attractiveness for elk. One WMA pasture would be grazed annually in June-July on a four-year rotation and would be rested yearlong from cattle in the intervening three years. This rest-dominated application of a rest-rotation grazing strategy on the WMA would allow grasslands and riparian areas to continue improving within the 2,800-acre treated landscape (Hansen, personal communication).

### **Public Involvement Process & Result**

A draft environmental assessment (EA) was released for public comment for 30 days from February to March 2019. The EA was posted on FWP's website and comments could be made directly on the EA's webpage or submitted via mail or email. Legal notices were published once each in four local, regional, and statewide newspapers, and a statewide news release was distributed. FWP mailed 129 printed copies of the EA and 141 emails of its availability to adjacent landowners and interested individuals, groups, and agencies. FWP received 31 comments during the public review period: 17 from individuals and 14 from groups (sportsmen, wildlife, stockgrowers, and land use). Supporters for the proposal included seven individuals and six groups, opponents of the proposal included nine individuals and five groups, and four (one individual, three groups) did not clearly indicate support or opposition.

### **Alternatives and Analysis**

The only workable alternative is no action, which would forego this opportunity to work in cooperation with a neighboring ranch to help resolve wildlife habitat resource issues.

### **Agency Recommendation & Rationale**

FWP recommends the commission approve this proposal. FWP worked with the McQueary Ranch under the commission's longstanding guidance embodied in ARM 12.9.510: *(1) The commission intends Habitat Montana to deliver the following services and benefits: (a) conserve and enhance land, water and wildlife; (b) contribute to hunting and fishing opportunities; (c) provide incentives for habitat conservation on private land; (d) contribute to non-hunting recreation; (e) protect open space and scenic areas; (f) promote habitat-friendly agriculture; and (g) maintain the local tax base, through payments in lieu of taxes for real estate, while demonstrating that productive wildlife habitat is compatible with agriculture and other land uses.* FWP has carefully addressed public comments in its Decision Notice, which will be made available to all commenters and the public two weeks prior to the April commission meeting.

Mike Thompson, Region 2 stated this proposal is the exchange grazing activity that currently takes place on the landowner's land. Part of the ranching operation is next to Spotted Dog WMA. We propose to provide a pasture that would help manage that would help with grazing with a larger grazing area if properly managed would benefit wildlife. We went through the MEPA process. In our public involvement process we put the draft environmental process out for review for 30 days. We released it at the end of February and took comment until the end of March.

We published public notices, legal reviews, statewide news releases, mailed 129 printed copies, 141 emails of its availability, covered adjacent landowners, interested groups, and other agencies. We got 31 comments back. There were 17 from individuals and 14 from groups. There were seven individuals and six groups that supported this. There were nine individuals and five groups opposed it. One individual and three groups did not clearly indicate supporter opposition. We went through an analysis of the comments. We got a lot of good questions. People wanted more information and more details. So, we went to some levels to answer those,

A Decision notice that we released a few weeks ago, we tried to touch base so that when we are done with the decision notice information contained in the draft EA and in the decision notice. The combined notice of environmental assessment that we think addresses the things that the [public had to offer. This included questions that we had ourselves.

Mr. Thompson advised that he wanted to take a minute to get everyone orientated to the area. We went on to describe the PowerPoint slides maps and areas. It is 37,000-acres which is 27,000 deeded acres and 10,000 or so leased from DNRC state lands. It is located on I-90 between Deer Lodge and Garrison then from Avon to the north Highway 12 to Helena. The McQueary Ranch maps show the elk locations from the groups of elk that is a scatter of elk surveys from 2013 to 2019. The surveys are done in February and March. The McQueary Ranch has about 500 elk on their property. In 2019 we had a similar event and the elk were scattered in smaller groups. In 2017 the winter conditions were more open. In March, the elk stayed on top of Spotted Dog mostly. Just about every year the McQueary Ranch has winter range that is occupied by elk. This is a very important part of the system out there.

He wanted to thank Dan McQueary the landowner for helping us do this. Mr. McQueary and his neighbors have been very helpful in the implementation of the management plan. This is a first step forward and he has always allowed hunting on his place. We will have a special access agreement. We do ask a lot of a landowner when we do this. We ask a lot regarding their operations and the public process. Letting the public in on private lands puts strain on the landowner. The wildlife management area is about a half a mile from the ranch at the time there were about 85 elk. There are a lot of elk on this ranch and there will be for most winters. When the elk feed line comes in, there is a lot of game damage way beyond your imagination. What is interesting is that when the weather breaks the elk pull off that feed line. They don't want to be there. If they have an alternative, they will leave.

This gives us an opportunity to work with an animal that wants to be somewhere else. This gives the chance to be successful. There is one part of the land that if we could pinch point it would help us manage the elk. If there were grass left standing in that area, could we guarantee that the elk would be carried over in tough weather conditions. Every few days they come down to feed matters. If we can get the feed line to rotate a little that takes stress of the landowner and the elk.

The prescription that we are suggesting is rest the winter range for the livestock. This would take the livestock off the ranch. This is not quite what the prescription is but, that is what you are looking at. We would like to reserve all the grass in that area for the elk. This is a public benefit. A gift if you will from the landowner for public interest. There is 1,500 to 1,400 acres of the ranch in any given year would be rested and the grass that is produced would be available for the elk to eat. Cattle would not be on it for that year. This would be every year for a six period according to the agreement. That gives up 240 AUMs that the landowner could have used. In return he will graze half of the acreage that was given up. He would graze an area on Spotted Dog that would not impact the elk. Hopefully, we have structured this in a way that will not impact wildlife negatively.

The question that was posed to us and the environmental assessment was is there a role for cattle on Spotted Dog WMA? This has been a topic of discussion before we bought the place. This was a controversial purchase. Commission guidance on the benefits of the Habitat Montana program intended to provide. He reads this as the Commission intends Habitat Montana to deliver the following services and benefits such as conserve land, water, and wildlife. He reads that broadly. He doesn't read as conserve land, water, and wildlife confined to just an area of agreement. He is talking about using the tools in the Habitat Montana toolbox to conserve land, water, and wildlife in Montana. Think of this as a contribution to hunting and fishing activities. He thinks of this as broadening hunting and conservation of lands in Montana. He thinks that is what this proposal is trying to do. This would contribute to nonhunting recreation. It would protect open space and scenic areas and promote habitat friendly agriculture. It would maintain the local tax base through payments in lieu of payment s for real-estate while demonstrating the productive wildlife habitat is compatible with pasture and other land uses.

This is how we approach our jobs when we talk about trying to manage within the context of Habitat Montana. Many of think that we have failed if the outcome is acquiring an interest in properties. Regardless if our sign is on it or not, what we want to do, and people help us do is to metaphorically lower fences and bring them down. We want to manage land effectively across ownerships. There were a lot of conversations and in 2010 the Commission approved the purchase of Spotted Dog. In the decision notice of 2010, we address the livestock issue and if there should be grazing on Spotted Dog WMA. At the time, the issue was that it had been a historic cattle ranch for Heritage Cattle Ranch since the 1800s. it was one of the first places west of the Divide. It has a long heritage that stems until today according to the community. The real heat of the public comment was the pace needed to be grazed and you should keep cattle on there. The decision notice at that time, made a special effort to really enunciate what the livestock grazing thought would be amongst the other considerations for the WMA.

It says that FWP would look for opportunities to prescribe livestock grazing in a cooperative manner in the future for the mutual benefit of the range resources of public and private lands. We would learn and document wildlife use of public and private lands for the yearlong range of the Spotted Dog elk population. FWP and the ranchers would work together to find opportunities where livestock could be used to better distribute elk and wildlife across public lands, reduce game damage, enhance hunting opportunities, improve FWP's management of elk numbers, and enhance ranching operations. This is from the language from the decision notice saying that reviewing the formation of an advisory board as suggested testimony at the hearing of July 14, 2010. Be important in the process in developing a future wildlife and habitat agreement on spotted Dog WMA. Finally, such an agreement would require the EA be prepared under MEPA and require review by the Commission. That is what we have done.

In the summer of 2011, the maintenance supervisors for Region 2 WMAs pulled together independent expert assessment and inventory of the ecological condition of the WMA. They contract Dr. Paul Hanson and his staff of Ecological Solutions from Stevensville. They have a tremendous amount of knowledge and expertise. They produced a final report in 2015. It is exhaustive



to read because it is 4,000 plus pages. It has been hard to work with. We have something here that he wants to emphasize, and they put it in the decision notice. This is something that he hopes the Department and the Commission can get excited about. He doesn't know of any other chunk of ground that has that kind of assessment from an ecological standpoint to build on. He wanted to thank his processors for the work. We can do well with the information.

To give an overview of this, there are 192 plots out there. There are areas where detailed measurements were taken. The acreages could be anywhere from a couple of acres to 20 acres or more. They did all kinds of detailed vegetation analysis and assign ecological evaluations to those situations. Each plot represents a larger habitat unit. Every acre out there is accounted for in terms of ecological condition. Before some of the past reports came out we were successful in pulling together Spotted Dog work group that we talked about in the 2010 decision notice. The latest meeting that we had, we were able to pull together a large group of people in March 2019. The FWP staff has also made a large part of the attendance as well. We have had about 35 meetings since 2013. The work group was really important and he will leave that to Mr. Hollenback to speak to.

He wanted to recognize a couple of people from the work group because they didn't know what they were getting into. The Work group is heavy towards the local community and heavy towards the neighbors. We are new kids in a big local community. The biggest issue was to find our way to be good neighbors. The only way to do that is to work with the community. Jason Swant and Neil Horne were volunteers from the organized sportsman's community. These gentlemen stuck it out all the way through and developed relationships within the community. They brought views to the table and it is very important all the work that they have done. They are still on the work group now. He wanted to acknowledge Jim Flynn for all that he has done as well. We had people from all different groups such as county representation, and other people we work with on a variety of issues.

John Hollenback who is the chair of the group as well as Dan McQueary are here today. Mr. Hollenback will speak about the committee later. Our first meeting was a bit acrimonious. We didn't know how it was going to go. The first thing the committee did was appoint Mr. Hollenback as chair. He has that kind of respecting the community and that is why we have that kind of work group. Jody Pauly has also worked with the ranchers as a Montana State University Extension Agent of Powell County. What we have achieved so far is a revised habitat plan for the Spotted Dog WMA. This is the work groups management plan along with Fish, Wildlife and Parks. We came together for this management plan and had a lot of public input. At the very end of the habitat plan, there is a wildlife subcommittee report and other reports are included. There are historical accounts that the workgroup had pulled together that are really good reading. There is a long body of public comment as well.

Rather than rewriting the plan to include every public comment, we reserved that in the appendix, so it is there with everything else. When we tried to implement this plan on the grazing the plan addressed five different management tools depending on topography and resources that are there. Is there a role for cattle on this WMA? If you would look at the plan and our knowledge, you would say not now for unit 1 and unit 2 facing the highway along Deer Lodge and Garrison. That is elk winter range which has steep slopes and harsh grounds. We don't want to share that with cattle. We want all that for wildlife. Management unit 5 by Avon is the Trout Creek area. That has gotten hit pretty hard by cattle. There is rough fescue in there that does not need to be grazed and is as fine as you will ever find. We will leave that alone for a while. Unit 5 is scattered parcels that are not fenced. They are part of the public land grazing allotment there. It is being managed like the Forest Service. Unit 3 does have areas that could benefit from livestock grazing. If we look at this, we need to consider all wildlife and how this will affect everything. This includes sensitive species and we will need to take a closer look at those. We want to minimize the riparian exposure. We would not look for grazing pastures with complex riparian areas coming together where it is hard to fence around. We would look for broad uplands with water to support that. We need to protect our aspens and wetlands that those have been hit pretty hard.

We will stay away from those for recovery. Some parts of the WMA are in better shape than others. We will pick places that are in better shape as they can support the plan that will rebound quickly with treatment. We would try to make the grazing area as small as we could possibly make it. If you do that though, you run the risk of intensifying the treatment. Room is needed if there is going to do this and allow rest. What is the habitat treatment benefit? There is benefit for providing treatments now and again that plants have responded to. There is structural diversity for a variety of species. With a little treatment it can end up with a little more diversity of plants and wildlife.

We did some research and talked with the landowners about wildlife. It was time to see what could be worked out. We took a good look at the ground to see if we could prescribe something. Calvin Johnson is our state wildlife habitat biologist and is currently working on specializing in range and riparian management for the benefit of wildlife. Mr. Johnson and Mr. McQueary were the negotiating team that were responsible for grazing plan giving the guidance that was given over the years. The fine filter assessment was completed and a portion of unit 3 we found a logical place to consider the livestock grazing. There are long narrow riparian areas that will be easy to fence in. There is room for rest following treatment. This will happen on a rotating basis. Three years rest would follow one-year treatment.

We did a study in the elk horns years ago that was published in a journal of wildlife management. Distance from a road and previous years cattle grazing predicted where the elk would feed in the spring. Elk don't like to feed if there is not enough last year's growth. If the goal is to distribute elk, then distribute them in the spring. The lesser default would be in the fall. The lay of the land may



match a movement pattern for elk. Monitoring is a big piece of this and we had a lot of public involvement that helped with this. We talked about committing more to monitoring. FWP staff got together and put together more information.

We are also looking at funding. What we need to do and what we have to spend. The Natural Resource Damage Program has indicated they are interested in helping us with monitoring as well as the Audubon. We would like to redo some of Hanson's plots that pertain to the right of way of the proposed grazing area not only on the WMA but on the private grazing area as well. He is looking forward to working with the landowners regarding this. The Audubon is interested in looking at the bird response out there. Dr. Kelly Prophet is looking forward to some camera work to see how the elk place and see if there is any response.

The safeguard here is that we have a six-year lease. We won't come back and visit this for another six years. If there is a problem and there is something that we need to address, then we can say it didn't work out at the end of the grazing season. This is for mutual benefit and there is another aspect to it that benefits the landowner. He wanted to acknowledge the public comments. The EA would have been fine to address the level of detail people needed to understand the situation. With the added work that we did through the decision notice, we addressed questions and talked with sportsman groups and other folks. People made this better with the interest that they expressed. He would like the Commission to listen to members of the Spotted Dog work group about the work they have done. He wanted to mention that Jody has been extremely helpful with helping with the meeting and taking care of the minutes. She brings a lot of expertise and experience with her.

John Hollenback started the Watershed Restoration Coalition for the Upper Clark Fork in 1998 as a way to work with neighboring landowners. He has been the chairman for 16 years. He also serves on several other boards including the Powell County Planning Board, the bank board, the State Range Committee, and many others.

John Hollenback, Rancher, Gold Creek, stated in 2013 this was started and appreciate the time you would take to listen about what we have done. People think that because we are here to talk about the grazing that is what we have been doing the whole time. We have had about 35 meetings and we have tried to keep them below two hours. Some people drive 40 to 100 miles. There was a lot of dedication to what we are trying to do here. He thinks that they have come a long way and it wasn't easy because some people had bad feelings about this in the beginning. Some of the things that he was told was there was going to be a working group and then the Governor said there was not. We had to reapply when the new Director came in. that is how we were able to start again.

We have come a long way. He would like to look back and reminisce about all the different outlooks and opinions of everyone that comes to the meetings. We take our tours and take time. Over the last five years we have made friends and learned to respect each other's opinion. Our goals headed in one direction. When he accepted to be chair of the group, he was told they didn't want to vote on anything. They wanted to do it by consensus. With his past experience of being chair for other groups he wasn't sure about that. So, over the years they used consensus and he is glad they did. It worked well. If we had a problem reaching a consensus then we would go back and look at it. We did have consensus when we were done. We learned as we went.

He thinks that the 35 meeting they had good attendance. We had four different groups for a long time. The groups would do their part and come back and report. That worked well for us. He did his part by going around to the different areas and visited with the landowners to see how they were doing. He knew a lot of the folks because he sat on different committees and boards with them. We learned from other people how to pull this all together. There were times were not everyone agreed that FWP should own that. But over time were able to come to an agreement. This time around we understood the this was for the wildlife and that we need to manage that. The resource needs to be managed under good conditions. We talked about all that we learned and some of that was about cattle. We were able to come up with what we have here.

One of the treatments that he believes in strongly which he has seen throughout the years that does work to bring in the cattle. Where we are now with this proposal is that we reached a point where we are all in tune with what needs to be done. He was able to tour the areas with different parties. He toured with someone who was interested in the birds. She was able to teach everyone the tour about the different birds and how the area was important to them. He learned about how grazing and cattle would work together and that the birds also would move back and forth much like the elk.

He wanted to really thank Dan McQueary. He is really impressed with the amount of land that he has given to help with this project. He has really taken the brunt off all this. He hopes that something can be done to help Mr. McQueary to manage the land arrangements. When the grass is gone to make sure there is enough for him to have a little more growth and so on. One of the things that he read was the part about being good neighbors. This is something that we should always keep in mind and we should try to make it work for others too. We can do that and benefit the wildlife management areas as well. The committee firmly believes in what they have done here. They have a lot of information gathered to back it up.

He has dedicated his life to range management and serving on boards. When he first saw this he thought why would you rest a pasture for three years? He has never been able to do that. When he studied it and saw the benefit of it, he could understand the elk might not come in to graze on a year when the cattle were there but may come in to graze the following year. We do have an interest in using the property for what it was intended for. He is really proud of the working group and how they all came together.

They all listened and got to present their point of view. With the monitoring and everything that was set up we can have the control to know that we are not going to harm things and make them better. Thank you.

Jodi Pauley, MSU Powell County Extension Agent stated when she was asked to join the committee she hesitated as she did not know what she was going to be getting into. It has been a very satisfying committee to be on. She feels what has come out of this with such a diverse role of people and one of the roles that she stepped quite naturally was the education piece including what to bring to the table. In the beginning we spun circles and went the rounds. We looked at goals that we had for Spotted Dog and it wasn't always about grazing. We talked a lot about hunting access, recreation, riparian, water development, and what does off site water development look like as well as wildlife enhancement.

We decided that before we could even come up with a plan for the WMA we needed to get out feet on the ground and see what is there. Some of the people on the committee had never been to the Spotted Dog or only on portions of the Spotted Dog. We had a couple of really good field days. She pulled in a range specialist Jeff Mosley and his wife Tracy as they have a huge background in range. We helped facilitate some of the discussion and toured some of the different areas. We looked at grass, forestry resources, riparian areas, and really took a good look at the renewable resources that there is on the Spotted Dog. The tour helped everyone come away with a better understanding. The Spotted Dog is unique in historical aspects. There are historical rock cairns from the old sheepherding days. There are people on the committee that has a deep passion for history. Some conversations were focused on that and how we can bring the history of Spotted Dog into the management plans. A lot of neat things came out of this.

Because she was able to facilitate some of the meetings and take a lot of minutes, it helped develop the plan that you have in front of you. She put together a couple of presentations because of background of knowing range. In the presentations she let everyone know about all the resources and forage up there. We don't pull this out of thin air. We pull our info from the NCRS Web Soil Surveys. A lot of the take half, leave half rules were very conservative. Some of it is never going to be used by wildlife or domestic livestock. There are a lot of resources up there.

The committee talked about how much a cow eats each day. How much does an elk eat each day? We were educating ourselves so that we could understand better. Neil Horne advised that he had no idea until he sat on this committee what grazing can do and what some of the benefits could be. She thinks that it brought everyone together. We know the WMA and we are not reinventing the wheel. There are a lot of WMAs that have similar grazing or other resources that they have. This WMA is a beautiful piece of property of you have never been on it. One of the appeals for FWP to acquire this was winter elk range. The appeal was that it had over 100 years of domestic grazing on it, for us to take that tool away now will that change the whole scenario? Does it take that piece of management away? She thinks that this is a step in the right direction. We are being extremely conservative. The WMA is unique in that is surrounded in a lot of private ownership. We do have that whole complex role to deal with. We want to expand the area and be able to work with the landowners. We talked to them about their goals and what they were looking for. She really wants to commend FWP for taking the next step for working with the landowners and develop grazing plans. Thanks to FWP for taking this in the right direction.

Acting Chairman Stuker stated that if Dan McQueary wanted to comment that would be beneficial.

Dan McQueary, Landowner, stated that he didn't get off to a good start with all of this and he does have some strong feelings regarding this. He has lived in the area since 1956. He has looked at elk that whole time. The history of the place prior to the management area being owned by FWP there was cattle grazing there and we did not have an elk problem there. The elk kind of stayed in the wildlife management area. Then the grazing was removed, and the grass got tall, rank, and stale. The elk went to other places where there was better feed. If you look at the elk movement over the last five years you will see that they have moved closer and closer to our property. The winters have contributed to that. The elk used to stay on the WMA and he believes that there are too many elk there. At one time there was enough winter range identified for about 700 to 800 elk. Right now, there is 1,800 elk. The elk have to go somewhere so they wander onto private ground.

Mr. McQueary Advised that he agreed to this proposal because he has elk whether or not he gets to graze there or not. He decided to try it. It may not work for FWP or myself, but he feels it will work. He will strive to make it work. He agreed to some things he didn't want to agree to in order to get the ball rolling. He hopes it is a step in the right direction. He hopes they can expand it because the elk does not use half the area. He has lived in the area all his life and had noticed that the elk has stayed less and less on the east half since the cattle grazing has been terminated.

There is a wonderful piece of ground there if managed properly would keep elk in that area a little longer. He believes that FWP has an obligation to its neighbors to give them some financial relief actually. The elk are there and grazing on private grounds. They are starting to overgraze private ground. There was a tour a couple of years ago in the spring. He pointed out to Calvin Johnson what was happening on our property and where we used to winter some mule deer which the elk have come in such large numbers that they have trampled down the winter feed for the deer. The mule deer have vacated the area and do not live there anymore. The elk have broken down the bitterbrush so much that most of it is not there anymore.

I am hoping we can work together with this agreement and expand on it. You will read comments on this from the people who oppose it and think we will be overrun with cattle. He doesn't think that will happen. He thinks that there are people here that are responsible that will monitor that and do a good job of it. He thinks that cattle grazing can work. The person that used to work for Williams and Taverners Company was a man named Don Shonka. He lived on the Dog Creek Ranch year-round. He was instrumental in getting the elk numbers up. He talked to the landowners and said that they needed to get this done. They did close their grounds and then the elk did have a place to go. The elk resided there, and the numbers went up. He used to say that in the spring when the elk left winter range, they would go along the east side which is now owned by FWP used to take the elk two or three weeks to get across it. The elk do not even stop there anymore.

The elk move over to the Forest Service land and are eating the Forest Service permittees grass too. If I were a permittee on the Forest Service land, he would be raising a big fuss due to the elk not moving through their usual transition. Thank you.

**Motion: Commissioner Aldrich moved, and Commissioner Brower seconded the commission approve FWP's proposed six-year cooperative grazing lease with the McQueary Ranch on the Spotted Dog Wildlife Management Area.**

#### Commission Comment.

Commissioner Aldrich stated that is home country for his family too. The Beaumont family had a ranch just north of Deer Lodge. That is where his mom was born and his grandfather lived for a long time. He listened to what was said and his experience was that the landscape that elk use is large and diverse. There are times and places that become very necessary to them. We are talking about a landscape not necessarily the WMA or private lands. We are talking about elk that have used this land for many years and they have thrived. He appreciates the depth and breadth of the work that has been done by the working groups. This is quite a presentation in his mind. He thanks everyone very much. Thank you.

#### Public Comment.

#### Helena Region

Stan Frasier, Helena, stated one of the things that he noticed in the proposal right off the bat was the scientific rationale for this project. He doesn't believe that the research is well founded, or the scientific research of the elk are well founded. After one of the meetings, where this theory was brought up, Steve Knapp commented that the theory they are referring to is about only one species of grass for a very limited amount of time. He has been watching his own grass grow for 30 years with no grazing on it and it is doing just fine. There is more grass, less lupine or other plants. Talk about being good neighbors, after one of the meetings he was talking to another guy and had toured through there early one spring and saw black cattle. He asked why the cattle was there. He was advised that one of the neighbors keeps cutting fences so that the cattle can trespass in here. Just because there has been cattle on there for a hundred years does not mean that has to continue. He rejects the premise that elk need cattle to eat the old grass, so they can find the green grass.

What did elk do thousands of years before we had cattle to help them out. He does not believe that cattle grazing is a tool it's a problem. All the effort and expense that will have to go into fencing, monitoring, keeping the cattle out of riparian areas is not necessary if you don't have cattle in there. He attended the meeting where Hanson presented his research. Basically, what he said was his land has been trashed by cattle for 70 years. He feels the land needs rest and no trapping in there and let beaver into the riparian areas. Leave it alone. Now we have a situation that either prove or disprove this theory. We have Hanson's study. We know what the vegetation are like now. Leave it alone for 10 years and then go back in there and so a survey to see what it looks like. In his opinion it will take at least 70 years for the land to recover from the damage that had been done by cattle grazing. There are some streams there that are in terrible shape. He attended some of those meetings and they were tortuous. They took two hours. He doesn't feel that there was any progress gained. He doesn't feel that FWP gave any direction. It was heavily stacked with ranchers and a couple of sportsman representatives. It was basically a tour along complaint session with the rancher complaining about FWP. He thinks that this is a perfect spot to a scientific analysis and see if this bogus theory of needing cattle grazing is true or not.

Brian Ohs, Montana Stockgrowers Association, stated that he approves of the motion. He wanted to say that the presentation although lengthy was informative. He thinks that there is a lot of work that has gone into this. Previously before lunch there were a few w examples of issues that were potentially contentious that are working well. They have been amended and these are good cooperatives. He thinks this is a good thing moving forward and he supports this. He doesn't feel that this is a huge step. It's because only eight percent of the land is being utilized in the WMA with only two percent of that yearly for allotments that are being rotated. Thank you.

Gary Ouldhouse, President, Anaconda Sportsman Club, stated they received the decision notice with all of our concerns listed. Some have been answered and some not to our liking. We are hesitant to continue with advocating no action which is one of the alternatives. We can be a working group and we do want to participate. Thank you.



Chris Marchion, Former President, Anaconda Sportsman Club, stated he been a part of the club for over 30 years as well as the Wildlife Federation. He has participated in comments from both organizations that have been in opposition of this. Thirty years ago, he went to legislature on behalf of Habitat Montana. That was a difficult process defending Habitat Montana. Without Habitat Montana there is no Spotted Dog. He has spent 20 years supporting the NRD law. Sandy Stash left a lot of scars for him. Without the NRD money, there is no Spotted Dog. He worked and supported the spotted dog acquisition with our clubs and organizations. We had FWP staff at our club meetings last fall. They were also at our meeting before the EA came out. There was no mention of grazing in the meeting. We have a history of being involved in this. All we got was nothing. Nothing. A week later we open up the paper and there is spotted dog. We did not get any consideration in this thing.

A week before this thing had to be in we get a presentation from Mr. Thompson. He was upset with the comments he got because that wasn't what he heard at the previous meeting. Now we are the bad guys. We are the bad guys in front of all the landowners now. We did not say that we were against it, but we did have concerns. We still have concerns. We think that the best things to do is postpone this thing. Get us get out there and let us visit with the experts to be able to resolve this thing. Right now, we are looking like we are anti agriculture, anti all this and that. In the last four or five years in that valley when the Department has had problems with elk who did they come to? We had a problem where we had a harbored herd of about 600 to 700 elk by Warm Springs. They are devastating a rancher's haystack and his feed lot. The Department the only thing to do was fence it in, the Department paid for the materials. The landowner drill and put the posts in and the club went out there and helped fence everything and ended the problem. The same landowner two years later the same rancher s had a combustible haystack and lost about \$12,000.00 worth of hay. We felt bad for the guy. He is on block management he allows hunting. We helped him build a new calving area. That the kind of club we are.

There was another instance in the valley where the elk was destroying fences and we helped build more fences. This is who we are. Why did we get the bad reputation? It's because we always ask questions about our landscape in how things should be done. This is really about communication and the lack of communication from the Department. We are in support of this and the concept of what is there. We have a lot of questions. They just assume that we are going to go along with them. We have a long history here of trying to cooperate and work with ranchers. We are the owners of the landscape and understand that we have to get along with the neighbors. We need to have some respect and we are not getting that. Thank you.

Charlie McCarthy, Helena Hunters and Anglers, stated he was raised in Anaconda. His Grandfather came to Deer Lodge in 1876. He was always told stories about hunting on Spotted Dog. There is a family hunting history there. You have already received our written responses. He wanted to mention that the introduction by Mr. Thompson on the monitoring took a little wind out of his sails. One of the biggest concerns that the sportsmen's groups have had a chance to get a baseline on what it is like now. Is monitoring going to show whether or not this thing is working out?

He is very surprised that McQueary is doing this quite frankly. He has attended some of the meetings and McQueary was put on the wrong side of the equation here. If we are listening to each other that is the important thing. The resting issue has been addressed and the grazing issue as well as the fencing. This will help with weed management because there is a weed problem on Spotted Dog. He feels there is still a grating between the sportsmen and the advisory council. He has asked for meeting minutes and you do not get any meeting minutes. It does not feel like the sportsmen side is well represented. We feel left out and not heard from. He asked at the last meeting about the meeting minutes and was advised that it takes 6 months for the meeting minutes to be approved. If you look at the website, you will not see the last six months' worth of meetings. That is not a good way to keep the public informed about what the advisory council is doing.

Greg Munther, Conservation Director, Montana Chapter of Back Country Hunters and Anglers, stated he wanted to congratulate the Commissioners on their appointments. It is quite a puzzle palace over at the Capitol. His drug him to the symphony the other day which is hard to do. It made an impression. It is not his kind of music, but he appreciated the enthusiasm the conductor had and how he led that enthusiasm of the orchestra who practiced their parts repeatedly. That just made him see that all human beings bring something to the table. There are so many parts of this puzzle that we are trying to deal with today. BCHA is comprised of nearly 3,000 hunters and anglers with the goal of preserving and protecting public resources and the wildlife it supports.

Our organization has anticipated every opportunity brought forth by the Spotted Dog management plan. He attended several meetings and field trips. Grazing was a major issue. It was repeatedly brought up as a practice that should be handled with great care. The tone was to get cows back out there. Other sportsmen groups brought up the same grazing concerns. We don't look at Spotted Dog six years down the road but 50 or 100 years. We were really surprised that FWP had already prepared the proposal without a single sportsman meeting despite the proposal being worked on for two years. The ranchers get two years to work it out and the sportsman get zero time. This was pretty disturbing to most of us.

The EA is essentially done and will be out for comment immediately. So, with no opportunity to visit the proposed site into the field. He like to go out and look at the rocks, fence lines, water, and all that stuff. We addressed the EA with a seven paged letter with eight major concerns. We requested the proposal be withdrawn. Hopefully you have that letter in front of you. Despite the seven pages of input the EA was signed and scientifically documented was tied back to the ecological assessment. Not one single sentence was changed. Not one sentence was changed in the EA. It really reflected the importance of the sportsmen in this process.



The proposal includes grazing riparian areas which is disproportionate to most wildlife species. A lot of the riparian areas are fenced out but the cattle drink surface water they will drink out of a riparian area. It is also in area that has a documented invasive weed species. The most disturbing is the early season timing which creates the perfect vector for seed beds of cheatgrass seeds. Cheatgrass once dispersed cannot be eradicated. It reduces forage values up to 80 percent. As far as cheatgrass, it is a decision that lasts forever. We request the Commission deny the proposal. It is time to include sportsman in the grazing proposal. He hopes this is not approved, but if you do. Hopes that it is insisted that part of the approval there be a more robust plan for documenting changes that will or will not occur. Thank you.

Nick Gevock, Montana Wildlife Federation, stated they are very upset about the process that took place to put this together and the lack of input. He agrees with Mr. Munther. A tour in the summer when people could be on the ground would have been extremely helpful. This is really not a sportsman verses landowner issue. We have numerous examples of where we have worked out livestock on WMAs. You saw that today the number of proposals that were renewing and some had changes. It looks at seasonal use. It looks at Ums. All of that. We have supported the grazing systems working with others and this is why they have worked out. It took time to develop but it had a better outcome.

We think there could be work done in the summer season on this when we could be on the ground and develop a proposal. We have confidence in a wildlife management area. Region 2 was proposing a six-month shoulder season just last year. We would support this if we would have a chance to be involved with it. He echoes Mr. Munther's comments. If you do approve this, we hope there is a very robust monitoring plan to see how it is working with review sooner than six years. Thank you.

Public comments.

No public comments.

Commissioner Byorth stated that as he was looking at the materials he had the same gut feeling that a lot of the sportsmen expressed that the EA really did not dig in. It was not thorough enough. In reading the comments though he thought the Department really did step up and listen to the comments. Having heard the presentation about the work group although he read through all the letters, the sportsmen really did not have a role in this. He is greedy about this. He wants more. He wants more wildlife and if it means a better habitat then he would want more cattle too. When I look at this I think of all the work that has gone into it this can have a benefit in the long run.

He would ask the Department to be very attentive to and open to listening to sportsmen's concerns and giving a tour out there on the ground, so people can see it. Maybe when it is not covered in snow. That is his thought.

Commissioner Aldrich thanked FWP in Missoula for scheduling a special CAC meeting that brought several the people here today to talk about this. It was a much better than average meeting. One of the CAC members said that it was one of the best meeting that he had ever been to. He is a biologist. The dialogue started out finger pointing in nature and we had to react to it. The end game ended up being people trying to constructively talk about how to communicate and work together to establish plans. This work group has been together for a long time. He is friends with Greg Munther and their wives are good friends. He really believes that this is a starting point. This is a beautiful piece of land and a whole lot of things came together for this.

We need to continue the development and the evolution of it. He thinks the project and all the work that is hoped to achieve deserves to be moved forward. This is a learning experience. He is more and more impressed with FWP's attitude to look for sooner rather than later. We should not jump into things but continue to be conscious of what people are saying and what they are seeing on the ground. There are all kinds of weeds out there. Cheatgrass is terrible stuff. Post grazing is going to be critical in trying to make sure that we are checking in frequently. If we need to make adjustments, we should do it. There are provisions between landowner and Department that obligates us to do those checks and make the adjustments. This is a move forward to enhance the overall landscape and its value to the wildlife and the wildlife lovers to be compatible with as well as beneficial to the landowners that have been there for so long. He approves this and it's time to say we are willing to take these kinds of chances.

Commissioner Brower stated he would echo what Commission Aldrich said. We always have to look for ways to work with private land owners. He thinks that this is a good opportunity to that on a smaller scale. From his understanding, we are only looking at only two percent of the WMA. Looking at this on a yearly basis for the next few years is a wise choice to develop those relationships.

Commissioner Colton stated that when he was on the Commission in 2010 and approved this project with the fellow commissioners, there was broad support for the purchase of Spotted Dog. Locally there was a lot of resistance. There were some wounds in that process. He is pleased to see as time has gone on maybe some of the wounds have healed. This is the logical next step. This on the Department and the Commission as to why we but wildlife management areas and why we hold them in the public trust to be diligent in the monitoring to look at this as we go. He shares the concerns of the sportsmen that spoke and not just on this particular project. Since he has been on the Commission he is hearing a popular refrain from the sportsmen groups on a regular basis, whether it is here at a Commission meeting, emails, or calls that he is receiving. They are feeling left out in the process. He feels that the

process was effective and the product that came out of it was good. People that he known a long time that have credibility with him said they were left out.

He wants to make sure that this is not happening. We need to move forward over the next few years. Thank you.

Director Williams stated she heard the same thing. The sportsmen were being left out or not adequately heard. This is something that came up this morning with the State Fisheries plan and it is something she feels is coming up more and more. We in the Department are paying attention. She thinks in the past that asks a question of you Mr. Arnold and Mr. Thompson that you have the history when we are working on a project like this reaching out to the public before an EA.

Mr. Thompson stated yes. I can say more if you want me to.

Director Williams stated that she is noticing a shift.

Mr. Thompson stated he thinks the trap is (and he will own this) the parties involved have been aware and involved not at a level that they value since 2010. I have seen them at the work group meetings. He has attended their meetings and has followed up. He took that as here it is, here is the guidance, here is the direction. When it comes time to negotiate with the landowner there is not room for a lot of people. You need direction, you need guidance to bring to the table to help the parties work something out for representing entities. There wasn't going to be a negotiation between sportsmen and landowner. There was a representative of all the public and the landowner carrying forward direction as we understood it. That is an excuse for why it missed his radar last fall.

Director Williams stated to follow up for the Commission as this is something that we are working on in a number of areas within the Department to improve and engage in what we do. When we are looking for and working with different interests and different groups to be inclusive as possible. It is a balance that sometimes we are going to get right and sometimes not. We will work diligently to improve. A more and more people want to be engaged in what we do some of the issues are tricky. It is not easy to perfectly include everyone. That doesn't mean that we can't try and continue to work on it. The reason she asked the question that more and more we are hearing from the public wanting to be engaged before an environmental assessment. As a state agency as well as other state and federal agencies are used to working with the public at that stage. Whether it be a public hearing or an EA, the demands from the public are more than we have had before to be engaged earlier. We are having to respond and try to find ways to work with all the different interested parties at earlier points in the process. We are open to suggestions. We are working on how to improve that in the changing times. Thank you.

Actin Chairman Stuker stated the Director talked about engaging and she has a big white board in her office that says "engage". He thinks that is a message the Commission is hearing, she is hearing, And the Department is hearing that we do need to do a better job. Whether this is in Fisheries, Wildlife, or whatever. We need to engage in all the parties. We are not going to be successful unless all of the groups out there feel they are getting the information needed in a timely manner and are able to work through the problems that they may have with what we are trying to do.

He thinks that the Department and the landowner did a lot of work on this. He wants to thank both of them. It has been several years. One gentleman says he has been to 35 meetings. That is a lot meetings over a long period of time trying to come up with a solution. He hopes moving forward the Department does a better job communicating. As long as we are communicating, and people are asking the question, we have a chance to be successful. He is going to support the motion. He thinks that it is a starting point. He agrees with the comments. As you know he is a rancher. He has monitoring sites set up all over his ranch. He goes out every year and takes photos as well as keeps track of the rainfall. He keeps track of the grazing in those pastures. That is the type of monitoring system we need here, and he thinks that is proposing that to keep accurate data.

He was also happy to hear in the agreement that if it is not working for either party, we can walk away and mutually agreed upon. If we are going out there and doing monitoring and not accomplishing what we wish it to do the two parties can get back together to see if they can work it all out. If not. We move onto something else. He would like to thank everyone that came and commented or worked on this project. Those not in agreement with it. Please watch and forward your comments on it. We can try to address them as we move forward. He would like to thank the landowner and the Department for coming together on this.

*Motion passes 5-0.*

## **23. Blackfoot-Clearwater WMA Grazing Lease Renewal, R2 – Final**

### **Background**

FWP proposes to renew the cooperative grazing/haying lease agreement with Two-Creek Ranch (TCR, cooperator), which has been continually implemented since 2004. The lease expired at the end of the grazing season last year. FWP proposes a six-year renewal of the lease to continue to use a maximum of 160 animal unit months (AUMs) of cattle grazing (with some limited haying) on approximately 887 acres of historically cultivated land on FWP's Blackfoot Clearwater Wildlife Management Area (BCWMA) to enhance spring forage quality for big game on the BCWMA, in exchange for the TCR adhering to a rest-rotation grazing management plan on approximately 795 acres of TCR's nearby private native rangeland, which involves important winter elk

habitat. The rest-rotation system would continue to provide enhanced plant-community health, and the rested pastures would provide forage for wintering elk as well as cover for a variety of wildlife. Two of the seven BCWMA pastures would not be grazed by livestock (to eliminate compaction and other mechanical damage to these sub-irrigated fields); instead, these pastures may be hayed once a year if conditions are favorable. No payment is involved, but the cooperator would also perform some weed spraying and fence/gate maintenance on the BCWMA. As part of the lease agreement, the cooperator would also allow public hunting on the private land involved in the lease.

#### **Public Involvement Process & Results**

A draft environmental assessment (EA) was made available for public comment for 30 days from February to March 2019. The EA was posted on FWP's website and comments could be made directly on the EA's webpage or submitted via mail or email. Legal notices were published once each in three local, regional, and statewide newspapers. FWP sent 16 printed copies of the EA and 47 emails of the EA's availability to adjacent landowners and interested individuals, groups, and agencies, and a statewide news release was distributed. FWP received three comments during the public review period, two from individuals (located in Hamilton and Missoula) and one from the Anaconda Sportsman Club. All three commenters supported the proposed action, and no commenters were in opposition.

#### **Alternatives and Analysis**

If the no-action alternative were selected, the six-year cooperative habitat agreement with TCR would not be renewed. FWP would not obtain benefits such as improved spring forage on the BCWMA or the rest-rotation grazing strategy on adjacent private lands that also serve as elk winter range. The indirect benefits of cooperatively managing this area with a neighboring landowner would not be realized.

#### **Agency Recommendation & Rationale**

FWP recommends the commission approve the proposal to enter into a 2019-2024 cooperative grazing/haying agreement, involving FWP's BCWMA and TCR's owned or leased private lands. The lease arrangement serves multiple wildlife habitat benefits both on the BCWMA and on neighboring native rangeland, while helping support sustainable ranching and public hunting opportunities.

Ken McDonald, Wildlife Division Administrator, stated this is a cooperative agreement with Two Creek Ranch which adjoins the Blackfoot Clearwater WMA. This is an ongoing lease agreement since 2004. The agreement would involve 160 AUMs on 887 acres what was historically cultivated land on the WMA to encourage spring forage quality. In exchange for grazing on that land, the Two Creek Ranch is incorporating 795 acres of their private range land into a rest rotation grazing system. Two out of the seven pastures regarding the Blackfoot Clearwater WMA are wet meadow. Those would not be grazed and could be hayed once per year if the conditions allow that.

Two Creek in addition to incorporating their land into the rest rotation system would also allow public access on the 795 acres involved in the agreement. There was an EA done on this proposal. There were three comments. All were positive. Based on that the recommendations proceed with renewal of the agreement for another six years with the Two Creek Ranch.

**Motion: Commissioner Aldrich moved, and Commissioner Colton seconded the commission approve the cooperative grazing and haying lease with the Two-Creek Ranch on the Blackfoot Clearwater Wildlife Management Area as proposed.**

Commissioner Aldrich stated this is a continuation of a relationship that has benefits to each party. They work pretty well and he has experience in that part of the world. Working with landowners like this and building trust working together and there is a job that each of us needs to do. This is a very good job as far as he is concerned.

Commissioner Byorth stated in this lease there is a public access component. Can you explain this further? How does this work in conjunction with the wildlife management area?

Mr. McDonald stated on the 795-acre portion of the ranch that is incorporated into the grazing lease allows public access. He is not exactly sure, but it is probably by permission.

Randy Arnold, Region 2 Supervisor, stated it is managed through our block management plan. It is a very popular block management area. Popular enough that we have a drawing. We have moved it to Missoula so that people don't have to drive all the way to Ovando to put their name on a list.

Commissioner Brower stated that when you say the conditions have to be a certain way to be harvested, are those measurable conditions?

Mr. McDonald advised that it is mainly if we are in a drought or something we would not hay it. It is not measuring grass but looking at conditions each season and deciding whether or not haying is appropriate.

Public Comment.



## **Helena Region**

Nick Gevock, Montana Wildlife Federation stated he thinks this great and he agrees with Commissioner Aldrich that this has worked for many years. He is also speaking for the Anaconda Sportsman's club and the MWF that has weighed in on this. This is a great cooperative agreement here. This opens up some access to private lands and benefits both parties. The way that we review these every few years and gives a chance to look at them and tweak them. This is working well and hope it continues to work. Thank you.

Brian Ohs, Montana Stockgrowers Association stated they also support the motion to approve this renewal. It is a good cooperative. He happens to be a member of Montana Stockgrowers and a very good steward of the land. Thank you.

*Motion passes 5-0.*

## **24. Three Mile WMA Forest Project, R2 – Final**

### **Background**

FWP proposes to implement a second forest management/habitat restoration plan for the Threemile Wildlife Management Area (TWMA), ESE of Florence in Ravalli County. During winter 2016-2017, FWP implemented a pilot treatment (Phase 1), involving thinning 372 timbered acres for improving understory-forage production for wildlife, releasing aspen stands and decreasing conifer expansion in meadows, while reducing risk of wildfire/beetle infestation. The current Phase 2 proposal would treat approximately 1,492 acres with similar habitat goals, using commercial and non-commercial understory thinning and prescribed burning. This project would also include road improvements, relocation of existing roads, replacing a bridge, and culvert installation to facilitate logging and log hauling, and reduce erosion and sediment transport. After use, roads would be revegetated and stabilized, remaining accessible for future maintenance, fire suppression, and non-motorized recreational access. FWP plans to work with the Montana Department of Natural Resources and Conservation and the Bitterroot National Forest under the auspices of the Good Neighbor Authority to treat 238 acres of National Forest System Lands located within and adjacent to the TWMA.

### **Public Involvement Process & Results**

A draft environmental assessment (EA) was available for public review for 30 days from February to March 2019. The EA was posted on FWP's website and comments could be made directly on the EA's webpage or submitted via mail or email. Legal notices were published once each in four local, regional, and statewide newspapers. A statewide news release was distributed, and FWP sent 15 printed copies of the EA and 49 emails of the EA's availability to adjacent landowners and interested individuals, groups, and agencies. FWP received six comments during the public review period -- five from individuals and one from the Montana Wildlife Federation (MWF, Helena). Four commenters (including MWF) supported the proposed action, no commenters were in opposition, and two commenters did not state support or opposition. (One supporter indicated: "I am generally supportive . . .") Individuals commenters included two from Stevensville and one each from Bozeman, Hamilton, and Missoula.

### **Alternatives and Analysis**

"No action" would allow conifers to continue expanding and increasing in density on TWMA, reducing understory and herbaceous vegetation for wildlife while increasing the susceptibility to a stand-replacement fire. FWP could consider a smaller action involving fewer acres, but because of the success of Phase 1 — a demonstration that was largely viewed as successful by FWP and the public — a larger-scale habitat restoration project would be timely, more efficient, and more effective at accomplishing habitat goals.

### **Agency Recommendation & Rationale**

FWP recommends the commission approve the proposed action to move forward with project implementation. The project would provide long term benefits for sustaining and improving wildlife habitats on the WMA.

Ken McDonald, Wildlife Division Administrator, stated this is a forest project and we are asking for final approval on phase two of the Three Mile Restoration Project. This is a WMA near Florence in Ravalli County. The proposal is to treat 1,492-acres using commercial and non-commercial understory thinning and prescribed burning. This so we can enhance wildlife habitat.

The objectives of this project are to improve deer and elk winter range, to restore open stand conditions, fire suppression for a forest to burn at low severity appropriate for the habitat type, reduce fuel loading, reduce susceptibility to beetle infestation, and promote aspen growth for regeneration. This will also include some road improvement, some relocations of roads, replacement of a bridge, and culvert installation. The roads would be decommissioned.

An additional plus with this project is that we are working with DNRC and the Bitterroot National Forest to incorporate an additional 238-acres of forest land into the treatment plan. This is under an agreement called the good neighbor program that looks at the overall forest health. The cost of this will be covered by any merchantable timber. If there is any excess revenue it would go into a forest management account that is available for the next forest management project.



The environmental assessment on the project had six comments. Four were in support and the rest were no opposition. We are in phase two and phase one treated 372-acres that was very positive for habitat. It was supported by the community and this is a continuation of that effort. It helps with our other obligations to help with management of our lands.

**Motion: Commissioner Colton moved, and Commissioner Aldrich seconded the commission approve this proposed Phase-2 forest habitat restoration project on Threemile WMA as proposed.**

Commissioner Aldrich recalled when Patrick Canella was senator, he brought a bill forward that had to do with this. Looking at timber resources at WMAs, park lands, and all kinds of places. He thinks that it was done right. What we have in place as far as statutory authorities that has worked quite well for the management of our wildlife and habitat that we have. This is another good example of a project to enhance further what we have at three mile.

Public comment.

### **Helena Region**

Nick Gevock, Montana Wildlife Federation, stated they support this and wanted to point out that this had worked well. This is an expansion of that. There is a bill that is coming through this session that getting statutory appropriation for good neighbor authority. That program has worked very well. He is glad to see that this project is including some work on an adjoining area. Thank you.

***Motion passes 5-0***

## **25. Rob Ledford WMA Grazing Lease Renewal, R3 – Final**

### **Background**

A nine-year grazing lease renewal is proposed with the Ledford Creek Grazing Association (LCGA) on Robb-Ledford Wildlife Management Area (RLWMA). The lease involves cooperatively grazing up to 2,955 cattle (animal unit months (AUMs) annually on 32,368 acres known as the Robb-Ledford Coordinated Grazing System. The system includes 17,302 acres of FWP deeded, 10,786 acres of Department of Natural Resource Conservation (DNRC) leased by FWP, 3,600 acres of DNRC leased by the LCGA, and 680 acres of Bureau of Land Management (BLM) leased by the LCGA. The grazing rotation also includes adjacent BLM and United States Forest Service allotments leased by the LCGA. Since 2000, FWP has used formal grazing leases with the LCGA to help meet the following management plan objectives: 1) maintenance or improvement of basic resources including vegetation, soil, and water; 2) demonstrate compatible management for consideration on other lands; 3) showcase the WMA as an area where wildlife and livestock can co-exist while maintaining a healthy rangeland; 4) provide winter forage for elk; 5) provide habitat for all wildlife using the WMA; 6) enhance wildlife habitats on the WMA and adjacent lands by managing the area as a common landscape; 7) provide adequate public access; 8) maintain the natural character of the land; and 9) increase public awareness and appreciation for the diversity of wildlife on the WMA.

### **Public Involvement Process & Results**

A draft environmental assessment was completed and was released for public review and comment on Feb. 21, 2019. Public comment was accepted until 5 pm on March 22, 2019. No public comments were received.

### **Alternatives and Analysis**

**Alternative A—No Grazing** would allow the lease to expire, and no livestock grazing would be permitted on the RLWMA.

**Alternative B—Renew the Existing Grazing Lease with No Changes** would continue the current grazing system lease with LCGA. Grazing would occur annually, following a rest-rotation design during June 22–Oct. 15. A maximum of 2,955 AUMs would be allowed annually. The LCGA would assume all fence and waterline maintenance responsibilities in exchange for paying one-half of the standard FWP grazing rate. **Alternative C (Preferred Alternative)—Renew the Existing Grazing Lease with Two Adjustments** would continue the current grazing system lease with two adjustments: 1) during every third year, when cattle start the annual grazing rotation in the Dry Hollow Pasture, change the prescription from: livestock graze the entire pasture during June 22–July 6, to livestock graze the lower elevation portion of the pasture during June 22–July 6 and graze the entire pasture during July 6–July 15; and 2) adjust the southwest corner of the Rock/Swamp Pasture and develop a water-gap to allow cattle to obtain water from the East Fork of Blacktail Deer Creek.

### **Agency Recommendation & Rationale**

Approve the nine-year lease as described under the Preferred Alternative. This would maintain those portions of the grazing system that have functioned well and further address riparian health concerns within the Rock Creek Watershed. Continuing with this lease would also help maintain cooperative relationships that have wildlife and habitat management implications that extend beyond the boundaries of the RLWMA.

Ken McDonald, Wildlife Division Administrator, stated at one time this took about as long as the mountain lion quota. Rob Ledford is in Region 3. FWP is proposing a nine-year renewal of the grazing lease with the Rob Ledford Grazing Association. This involves over 32,000-acres managed between 17,000 plus by FWP and 10,700 acres of DNRC land leased by FWP. There is 3,600-acres leased by the grazing association and a section of BLM ground that is there as well in this section. It is sort of a complicated rest rotation system and each of the elevations. The lower pastures were always grazed too much for too long because of concerns over larkspur.

Over the years, the regional staff worked with the grazing association and tightened up the grazing standards. We have had a couple of short-term leases to make sure the changes were working. As a result, we think we have pretty effective system now. The last few years there were some concern about riparian conditions on Rob Creek. That had been removed from the grazing all together. We try to address the site-specific issues as they come up. We are asking to renew the existing lease. It will be charges at half of the grazing rate. There are three different rates. There is the standard grazing rate which is what DNRC charges for maximizing revenue on grazing lands. That is \$24.50 per AUM. There is half the grazing rate which we will charge if the lessee agrees to do all the maintenance to maintain the system. There is also the exchange of use where there is no cash. This would come out as \$12.25 per AUM for us.

**Motion: Commissioner Brower moved, and Commissioner Aldrich seconded the commission approve renewal of the grazing lease on RLWMA with the adjustments described within the Preferred Alternative.**

Mr. McDonald advised that they did do an environmental assessment on this for public comment on this and did receive no public comment.

Acting Chairman Stuker stated he always pleased to see when we are partnering local people, land owners, and trying to come up with a solution that benefits all parties concerned. FWP, the sportsmen, the ranchers, and the wildlife regarding the proposals that we have had before really show the commitment of the Department in trying to work together. He appreciates that.

Public comment.

#### **Helena Region**

Nick Gevock, Montana Wildlife Federation, stated he would like to thank the Department for making the changes that address the concerns that were expressed. This is a long-standing lease that is working well. There is a large number of livestock and land. He is glad that we continue to refine the grazing systems.

Acting Chairman Stuker added some of the changes that were made now were comments the public brought forth the second year that he was on the commission. So again, thank you.

Stan Frazer, Helena, stated he came specifically to talk about the Spotted Dog WMA. Some of the comments he has relate generally to the grazing. He is not an expert on anything. Everything he has to say is backed up by his own opinion. However, he has more than 20 years on the Lewis and Clark Conservation Board. He has had the opportunity to see the damage that cattle grazing can do to the riparian area streams. He has been watching his own grass grow for 30 years with no grazing. Grass does not need cattle. He has been struggling for the last 30 years trying to get rid of the weeds that were introduced by grazing imported hay.

He has fewer weeds, more forbes, more grass, and he does not believe that cattle need to be everywhere. It would be nice to go to public lands and not trip over cow pies all the time. He doesn't think that the theory that you need cattle to manage habitat is valid. That is not his experience. He has been watching his for years and years. His grass is doing fine without cattle. Grass needs chance to reseed itself. Although it may improve what we had earlier with no public control over the land. Its fine. You can improve habitat by reducing grazing and making it better, it just seems logical that you could improve it more with no grazing, thank you.

Brian Ohs, Montana Stockgrowers Association, stated they support the renewal. He wanted to address the previous comments. Montana Stockgrowers are contrary to those comments and he believes that they manage the land both public and private very well. To refer to Stuker's comments about being cooperative working and the preferred alternative made adjustments for problems with riparian areas. We support hid. Thank you.

Commissioner Byorth stated that in reviewing the materials he saw the very explicit objectives set forth for the grazing program and to address some of the concerns that Mr. Frazer raised. It seems each of the objectives have measures to document whether or not progress is being made. He sees the objectives are being met based on good solid research. He wanted to commend the Department for taking that approach. Thank you.

Mr. McDonald wanted to mention that they have a person based out of Bozeman, Bob Harrington whose job is to go out to WMAs and conservation easements to do vegetation measurements and this got a lot of attention.

*Motion passes 5-0.*

## **26. Fleecer WMA Grazing Lease Renewal, R3 – Final**

### **Background**

FWP proposes to continue a coordinated grazing program on Fleecer WMA near Divide for a four-year term to extend May 2019 - October 2022. The program began in 1986 and has been modified over the years to better suit habitat objectives. It consists of a spring grazing exchange agreement (up to 500 animal unit months) with Fleecer Cattle Co. (formerly Smith 6 Bar S Livestock) and a separate fall fee-grazing agreement (94 AUMs) with Fleecer Cattle Co. and Russel Dupuis. Spring grazing would occur every other year as intensive grazing in a WMA pasture dominated by smooth brome. Fall grazing would occur in a rest-rotation fashion on the remaining three pastures on Fleecer WMA. Fleecer Cattle Co. would rest one pasture annually, dedicating forage for wintering elk, in exchange for spring grazing on the WMA. The grazing program would involve 3,700 acres of FWP land, 875 acres of Montana DNRC land leased by FWP, 1,920 acres of Fleecer Cattle Co. land, and 640 acres of DNRC land leased by Fleecer Cattle Co. In addition, the system dovetails with the adjacent Forest Service grazing system of 6,080 acres. Total acreage involved would be 13,215 acres.

### **Public Involvement Process & Results**

An Environmental Assessment (EA) was completed and open for public comment from Dec 28, 2018, to Jan 28, 2019. The EA was posted on the FWP website and mailed to a standard list of interested persons and a local list of interested parties. In addition, a statewide press release was issued, and legal notices were posted in the *Butte Montana Standard*, the *Anaconda Leader*, and the *Dillon Tribune*. Four parties submitted comments: three stated or implied support for Alternative A; one implied support for Alternative C. A Decision Notice was issued by FWP Region 3 Supervisor on Feb 15, 2019.

### **Alternatives and Analysis**

The following alternatives were considered in this Environmental Assessment:

Alternative A: Renewal of both the spring and fall grazing leases on Fleecer WMA.

Alternative B: Renewal of only the spring or only the fall grazing lease on Fleecer WMA.

Alternative C: Elimination of livestock grazing on the Fleecer WMA.

Alternative A uses cattle as a management tool for maintaining high quality and abundant forage for elk and other wildlife across land ownerships. Under Alternative B or C, elk and other wildlife may be negatively impacted in the long term due to the reduction in quality forage on the WMA, inadequate grazing rest on private and federal land pastures, and reduced tolerance for elk use on private land.

### **Agency Recommendation & Rationale**

FWP recommends the commission approve the Fleecer WMA Grazing Lease Renewal. This project will enhance and maintain habitat conditions across big game winter range on the WMA and adjacent private and DNRC lands, for the benefit of wildlife and the public.

Ken McDonald, Wildlife Division Administrator, stated this was another grazing lease renewal. This will be a four-year renewal. This is different than some of our other ones. This one has a spring grazing exchange where up to 500 AUMs managed by Fleecer Cattle Company on a smooth brome pasture. There is a separate fall agreement that involves 94 AUMs. Fall grazing would occur in a rest-rotation fashion on the remaining three pastures on Fleecer WMA.

Fleecer Cattle Co. would rest one pasture annually, dedicating forage for wintering elk, in exchange for spring grazing on the WMA. The grazing program would involve 3,700 acres of FWP land, 875 acres of Montana DNRC land leased by FWP, 1,920 acres of Fleecer Cattle Co. land, and 640 acres of DNRC land leased by Fleecer Cattle Co. In addition, the system dovetails with the adjacent Forest Service grazing system of 6,080 acres. Total acreage involved would be 13,215 acres.

The Department did an EA and received four comments. Three were in support and one advocated for elimination of all grazing on the WMA. Based on comments and the long-standing agreement that we have had and has been effective in recommending renewal for another four years. The lessee will pay one half of the standard grazing fee and help maintain fence for exchange for the other half. Thank you.



**Motion: Commissioner Aldrich moved, and Commissioner Colton seconded the commission approve renewal of the Fleecer WMA grazing leases as presented by FWP.**

Public Comment.

#### **Helena Region**

Chris Marchion, Anaconda Sportsman Club, stated they have a long history with the development of this. This is a pretty good proposal. It is pretty complicated, but it worked out. We support the renewal.

Brian Ohs, Montana Stockgrowers association, stated that they support alternative A.

Acting Chairman Stuker advised Mr. McDonald to clarify what they are voting for.

Mr. McDonald stated the recommendation was the agency for alternative A: Renewal of both the spring and fall grazing leases on Fleecer WMA as presented in your packet.

Acting Chairman Stuker asked the commission if this was their understanding at the time.

Commissioner Aldrich answered that was the understanding at the time.

Acting Chairman Stuker stated that is Alternative A.

Nick Gevock, Montana Wildlife Federation, stated this is another lease that has worked out very well. It is Butte's back yard elk hunting. He has been out there in the winter and seen 1,200 elk on Fleecer. Thank you.

*Motion passes 5-0.*

#### **27. Ear Mountain WMA Grazing Leases Renewal, R4 – Final**

##### **Background**

The Ear Mountain Wildlife Management Area (EMWMA) provides foothill grassland habitat for a variety of wildlife, including bighorn sheep, mule deer, grizzly and black bears, many species of nesting birds, and a variety other wildlife. Beginning in 1991, rest-rotation cattle grazing system was established on the 2,120-acre south pasture of EMWMA to enhance the availability of quality native forage for wildlife. In 1992, a similar rest-rotation grazing system was established for the 960-acre north pasture. Year-round and seasonal forage for mule deer and bighorn sheep has been enhanced and structural diversity of vegetation for a variety of wildlife has been accomplished through the use of grazing. Public hunting access opportunity on the lessee's property has also been incorporated within the grazing leases. FWP proposes renewing each of these leases for a period of six years (two full grazing cycles). Both leases are charged the standard grazing fee rate per FWP's grazing lease payment schedule. The maximum allowed stocking rates for the south and north pastures would be 391 and 70 animal unit months, respectively. The value of the north pasture lease is less than \$5,000, so technically this lease does not require commission approval, however, given the scope of the environmental assessment, it is included here.

##### **Public Involvement Process & Results**

In March 2019, FWP issued a draft EA and solicited public comment for a 22-day period for the proposed renewal of EMWMA grazing leases. One public comment was received and was in favor of the Proposed Action. Based on this public comment and given the original scope of the EA, no modifications to the draft EA were necessary. The draft EA along with the Decision Notice were considered final, contingent on commission approval.

##### **Alternatives and Analysis**

Alternative A was analyzed as the proposed action. Alternatives B and C would either approve only one of the proposed grazing leases or not renew either lease on EMWMA. In the absence of grazing, forage quality (palatability) for mule deer and bighorn sheep would decline over time and the diversity of cover and associated attractiveness by different wildlife species would be reduced. One or both lessees would be required to find additional grazing pasture elsewhere, and they would not be required to allow public hunting access on their properties. FWP would continue to manage EMWMA for the benefit of wildlife and public access.

##### **Agency Recommendation & Rationale**

FWP recommends renewing the described six-year rest-rotation grazing lease cycle on the WMA. The proposed grazing leases would continue to use cattle grazing as a management tool for enhancing forage and cover characteristics while also benefiting local producers with additional early (June) and late (August) summer pasture for

their cattle. Routine fence maintenance would be carried out by the lessees and FWP personnel. In addition to habitat benefits, the leases would help continue good relations with local ranchers/neighbors while also providing additional public hunting opportunities on their private ranches.

Ken McDonald, Wildlife Division Administrator, stated this is a two-year renewal for Ear Mountain. This is a rest rotation system on the 2,120-acres known as the south pasture. That has been in place since 1991. It involves 391 AUMs moving through rest rotation every year in a different pasture. There is a 960-acre known as the north pasture that is also a rest rotation set up with 70 AUMs. This one does not have an exchange of use. The neighboring landowners graze on this to help us with vegetation management both the diversity and productivity of the grasses. In exchange for that they maintain and pay the standard grazing rate of \$24.15 AUM and they will allow public access on the two different private ranches. This is through landowner permission first come first serve. This is a pretty simple lease.

**Motion: Commissioner Brower moved, and Commissioner Colton seconded the commission approve the Ear Mountain WMA rotational grazing system leases as proposed.**

Commission comment.

No Commission comment.

Public comment.

### **Helena Region**

Nick Gevock, Montana Wildlife Federation, stated they support the lease renewal. This is another great agreement. This is an area with a lot of grizzly bears and maybe later talking about a limited grizzly hunt. Who knows? It is a good project. Thank you.

Motion passes 5-0.

## **28. Big Lake WMA Haying Lease Renewal, R5 – Final**

### **Background**

FWP proposes to renew a six-year agricultural lease on a small portion of Big Lake Wildlife Management Area (BLWMA), approximately 17 miles north of Columbus in Stillwater County. The BLWMA is managed for waterfowl and upland game bird production, public hunting (for upland birds, waterfowl, mule deer, antelope), bird watching, and photography. The purpose of the lease is to formalize a reciprocal agreement with a local rancher for mowing services along a public access road and parking areas, decreasing the potential for wild fires. In exchange for mowing the access road, the lessee would be allowed to cut and bale up to 20 acres of hay annually on BLWMA for his own use. Haying (July 15-Aug. 31) would continue in a rotation within two areas encompassing approximately 57 total acres. A mix of alfalfa, clover, and tall and intermediate wheatgrass were planted on these areas over a decade ago to provide dense nesting cover for waterfowl and upland game birds. Periodically haying portions of this cover helps to maintain productivity and provide a diverse age structure benefiting waterfowl, upland birds, big game, and other wildlife. Haying locations would be determined annually by the WMA managing biologist. As in the past, the lessee would be required to remove all baled hay from the WMA by Aug. 31.

### **Public Involvement Process & Results**

The proposed lease renewal EA was available for public comment from Nov. 1 to Nov. 30, 2018. One comment was received from a private individual. That comment supported the lease renewal. A decision notice supporting the lease renewal was completed in early January 2019.

### **Alternatives and Analysis**

**Proposed Action:** Renew an agricultural lease with neighboring landowner (Ron Dannenberg) to reduce wildfire potential and maintain/improve seeded cover for wildlife on the WMA.

**Alternative A - No Action-lease not renewed:** No periodic haying would occur on the WMA. Over time this would result in a decline in habitat quality. Fire fuels would accumulate on the access road and parking lots, increasing the risk of fire caused by vehicles driving and parking in tall vegetation.

### **Agency Recommendation & Rationale**

FWP recommends renewal of the proposed lease. Continuation of the rotational haying and road mowing would maintain wildlife habitat and reduce fire danger, while benefiting the lessee's ranch operation.

Ken McDonald, Wildlife Division Administrator, stated this is a lease Big Lake Wildlife Management Area, approximately 17 miles north of Columbus in Stillwater County in Region 5. This is an agricultural lease which the purpose is to finalize an agreement with a rancher for mowing services on the public access road and the parking areas. This will primarily help us with fire and reduce the potential for it. In exchange for the mowing of the access road, the lessee is allowed to cut and bale up to 20 acres of hay annually in an area that encompasses about 57-acres of alfalfa, clover, and wheat grass that was planted many years ago to provide dense nesting cover for upland game birds and waterfowl.

It is a good reciprocal agreement where we get the mowing services for an area that we do not have much resources for and the lessee gets to bail hay out of the 57-acre area. This is a renewal for six years.

**Motion: Commissioner Colton moved, and Commissioner Aldrich seconded the commission approve the six-year Big Lake WMA having lease with the neighboring Dannenberg Ranch.**

Commission comment.

No Commission comment.

Public comment.

### Helena Region

Nick Gevock, Montana Wildlife Federation, stated that he was working on a report about all the different types of agreements that we have with different land owners. This is an innovative idea and it works. We should continue to let it work. Thank you.

*Motion passes 5-0.*

Director Williams stated that she just received news from the Senate vote and that we have all been on pins and needles. The Senate did vote to confirm both Commissioner Brower and Commissioner Byorth.

## **29. Public Comment for Items Not on the Agenda**

Neil Barnosky, Rob Creek Grazing Association, Sheridan, stated that is his understanding that action has already been taken on the Rob Ledford Grazing lease. He stated the grazing leases are to us. His family has been grazing there since the 1960s. He has seen a lot of changes over time. We have participated with FWP over the years developing a grazing system that he feels has been beneficial to both parties. The Rob Creek Grazing Association contributes a 3,600-acre DNRC lease, forest permits, BLM permits and it all works together in a good grazing system. He feels that they have used cattle to benefit the elk. From Dean Walty's surveys, the elk are really using that area for periods during the winter and into the spring. He feels that this has been beneficial to both parties. The plant communities are in a healthy condition. This is the grasslands and the riparian areas. They are continuing to get better.

On his home place, there is habitat for just about all the species. We participate in the block management plan. Each year we provide approximately 500 hunter days. This starts in bow season and into January at the end of the bird seasons. We have hunters on our land for a good part of the year. We work with FWP and Trout Unlimited on a fishing access site on the Ruby River. It is a very popular fishing access site. He wanted to express the importance of the lease to us as well as managing and maintaining the landscape rather than individual parcels. He feels FWP has become pretty good partners providing habitat for wildlife, fish, and livestock. He really would like to express his appreciation for approving the lease. Thank you.

Les Gilman, Ledford Creek Grazing Association, stated he underestimated your efficiency. We did intend to be here for the presentation. He is agreement with Mr. Barnosky that we thank you for your consideration of the grazing opportunities on Rob Ledford wildlife management areas. His property has been in the family for 139 years. In that time, we have never denied hunting and fishing access on our property. We have elk, antelope, mule deer, whitetail deer, black bear, pheasants, ducks, geese, long bill curlews, and as a month ago, a big black wolf. We have a diverse landscape.

We have worked in relationship with FWP and other public land agencies. I have the fifth, sixth, and seventh generations on his ranch and will continue to do this. We put a conservation easement on our land to make sure that it stays intact to provide the wildlife opportunity that runs in concert with our agricultural operations. We really appreciate FWP's recognition of that and how important it is that the Agency and the landowners work together to provide landscape management. Thank you.

Matt Graveley, Rocky Mountain Stockgrowers Association, Avon, stated he is here to address the Spotted Dog Proposal. He apologizes for not being here at the appropriate time to give comment. He wanted to thank the Commission for supporting this proposal. What he was able to hear from your comments was right on the money. You are right to continue observation and making science-based decisions. That is what we are after. That is what Mr. McQueary is after. We have a large piece of property that is a



huge piece of ground that the elk is not staying on and are using Mr. McQueary's property. It is an even trade to allow him some grazing opportunity to make up for what the elk are doing to him under FWP management in that area. For my money, Mr. Thompson expressed regret that things should have been done differently. He doesn't feel Mr. Thompson has any excuses to make in this regard. He got it exactly right when he took the action that he did to move forward as timely as possible. Mr. McQueary and his ranch have obligations that they have to take care of for themselves and their businesses.

If you really want to gum up the works, let's try to come up with a lease or proposal by committee. It is not a reasonable or feasible deal in this respect. He knows a lot of the comments that were made could be construed as oppositional or against the grazing proposal. They did bring up a lot of good points. They are concerned about the riparian zones. Who is going to fence it? Who is going to manage how the cattle get on and off the pasture? There are concerns about invasive weeds and other really good comments. He thinks that if they would have really read the proposal in depth and detail those concerns were addressed.

FWP is the agency that is deemed with managing the wildlife and the habitat that is occurring in this instance. There is nothing to apologize for in this instance. He wanted to sincerely thank the Commission for your consideration and what we take as being a support of our industry, our livelihood, and our neighbors. Director Williams did mention that we do have some wounds and that is definitely true and maybe they are healed. He would not go as far as to say healed. This will go a long ways to show the Department does want to be good neighbors and willing to work with landowners. He feels that this proposal is very reasonable, very well thought out, and if this was shot down by the Commission, would tear the scab off of the wound. He wants to thank the Commission, the Director, Mr. Thompson, and Mr. McQueary for all the work that was put into this and the support that was shown to us.

Rick Schoening, Retired Game Warden, stated he worked for 21 years enforcing the law for this Department and Commission. He sent a letter to all regarding proposing a hunting regulation change. We are asking the Commission to add all non-tribally owned lands within the exterior boundaries of the Flathead Indian Reservation to an existing hunting district to allow big game hunting. In Region 1, hunting district 120 would be appropriate.

The regulation that is currently published prohibits big game hunting on reservations by a simple omission of not being part of a hunting district. On page 29, it talks about general information and hunter land access on reservation lands. All it says is contact the appropriate tribal government for information. There is no hunting district. Legally, a non-tribal member cannot hunt there. There are numerous tribes in this state that are selling tags to non-tribal members. He is a sworn enforcement officer. He cannot violate the law. As the regulation currently sit, he cannot go and buy a tag for Fort Belknap, kill a deer and drive home to Polson.

There is a regulation snafu here. This needs to be fixed. He is a little passionate about this. He started as a Montana Game Warden in Missoula in 1979. He was in Sydney for six years and then Polson in 1986. He finished 21 years there as a warden. He moved to Polson before there was a bird hunting and fishing agreement. He went through the whole process with Governor Stevens and Governor Rascot. He understands how things are done on the Flathead Indian Reservation. His property and 600,000 other acreage that belongs to people other than the tribe, isn't considered reservation land. We live within the exterior boundaries that is it. Tribally owned land and tribal trust land. There is no evidence that the tribe has jurisdiction through federal law to handle that. His land, the neighbors land, and his sons land are not under the jurisdiction of the tribe. They have jurisdiction for hunting purposes. This are under the jurisdiction of the Commission.

There are over a thousand first line decedents of that tribe that are not allowed to hunt anywhere on their ancestral lands because of a state regulation. That needs to be fixed. The trapping regulations that Montana put out are very well written. They have the whole state broken into districts. There is no separation of reservations. All it says is there is a closure and that says trapping on tribal land or tribal trust land is prohibited. That is good language. If we wanted to do that with big game regulations. It could be written just like that. The tribe is a huge landowner. If they want to prohibit hunting of non-members, they can do that. Just like Ted Turner who can stop anyone from hunting on his land. FWP has always been worried about litigation when dealing with the tribes. He was involved in the first litigation. He was subpoenaed to Federal Court in 1989.

The agreement with the tribe and the language on fishing is very clear. There are exclusive fishing rights under the treaty language for the streams through the reservation. Hunting is a privilege plain and simple. He gave handouts to the Commission. So as a Department (FWP) I did what I was told so I didn't get into trouble. He doesn't work for the Department anymore. This is still my Department. I am still the game warden. People still call and ask me questions. They want to know why we can't take care of the elk that eating up all the winter feed. There is all this game damage. The largest landowner Rick Vanbost was going to come today but he has to tend to planting of fields. His game damage situation is very severe. When he visited there he was able to gather a group of tribal members that would help him out. Since then, since retirement all he gets from FWP is that he needs to talk to the tribe.

He doesn't believe that it is the intention of the Commission to discriminate against citizens due to there political association. Most of us are not members of a federal recognized tribe. Race isn't the issue here. Courts have ruled that political affiliation is what separates tribal members from non-members. If you do live within the boundaries of an Indian reservation, it is very hard to understand the issues that we are facing. Residents often feel forgotten and neglected by the state. The FWP fish and wildlife

policy while managing wildlife considering landowner tolerances like we have been talking about and the health of the specific herds. Nothing there addresses the Indian nations. It seems that FWP could be violating policy on this. This needs to be addressed. The regulations as far as being a law enforcement officer, the only thing he could ticket for would be hunting during a closed season. The present county attorney said that would not happen in Lake County. The regulations are too vague. His wish for the Commission to do would be to answer a question that had not been answered. He would like for the Commission to consider putting this out regulation change and public comment just to see what kind of comments you would receive.

He has spoken with Becky Docktor several times and she was very helpful. But as far as litigation goes, she doesn't feel there would be any litigation for putting it out for public comment. Thank you for your time.

Brian McCullough, Helena, stated he wanted to follow up on the decisions that you are going to making this summer relative to the last three years of the elk shoulder season. From his perspective is FWP was inodiated with the public interest in the elk shoulder season. It turned out to be much stronger than the people thought that came up here to testify. As a new Commission you should bring this to the forefront as landowners and the Department are learning to manage the shoulder seasons. This is a new experience for them as well. He has talked to hunters and they are learning about this when they along with the others are 80 percent unsuccessful during the general season. This is an opportunity to harvest a cow elk and are including this in their hunting plans. This is a work in progress. Based on the growth in the elk population, it is not the solution, nor should it be thought of as the perfect solution.

There have been tools put in place by other Directors and this is another tool. For the next round he hopes that the Commission strongly considers adjusting the performance measures associated with the elk shoulder hunt, keeping in mind that this is the first time in history there are performance measures with no historical experience trying to say whether it is successful or not. The issues of what is success in this next round is something to be looked at. In the future he thinks this should be excluded from the plans. Any threats or issues that are brought up should not be in the regulations like it has in the past which is threatening landowners with converting their area into antlerless hunting. If access is limited during the five-week season and the purpose of this hunt is to cull elk. The way you cull elk is to harvest the cows. The way you harvest the cows is you wait before the rifle hunting season because they are after the alfalfa or just after the hunting season. Hunters are in favor of that. Comments relative to Governor Bullock's veto to mandate that FWP have a late hunt. At that time, he was directing FWP to keep in mind landowner property rights and to respect the decisions that landowners made. He passed a document to the Commission of the veto regarding landowner rights. The current version of the elk should season guidelines which in the beginning say they are to respect landowner's rights. In the body of it does not. He hopes that this new Commission will make the adjustments. He thinks that it would be a huge win for hunter opportunity, landowner, and FWP relations. Thank you.

Brendon Schoening, Dayton, stated he wanted to address hunting on his own ranch. Which he cannot do. He lives within the area of the Flathead Indian Reservation. He feels like he is in a different country. He is a Montanan. He pay taxes and owns a business there. He is also a small rancher. He would love nothing more that family and friends to come hunt. Most people have block management to help. We can't even do that. He has talked to folks that have moved into the area and they don't understand it. He doesn't either. He really hopes the Commission will look at this seriously. It is time for change. He would like for this to go to public comment. This affects tens of thousands of people down there. Thank you.

Nick Gevock, Montana Wildlife Federation, stated he wanted to give the Commission a very brief overview of the Legislature and the budget the Commission will have to deal with in the next couple of years. It's a very good one and it is very strong. FWP budget is probably in the best shape that it has been in for the last 15 years. You have gotten two new grizzly bear specialists that are now permanent in the base budget. There are a lot of bears moving into the Gravelly Range. One person will be based out of Butte which is great because that is where bears are moving into as well as Redlodge. We have significant disagreements with Mr. McCullough about shoulder seasons and their purpose. This is an elk planner position.

He thinks that the Commission is aware that there will be a healthy discussion about elk management in the next year and a half on what the true purpose of shoulder seasons are. The game warden funding issue that we have all heard about has been reduced from 30 percent to 15-17 percent that is aggregate across the Department. We heard a lot from landowners who didn't like that change and how it affected patrols on their land. The agency will be getting the equipment it needs such as ATVs and boats, capitol upgrades at headquarters and hatcheries. The ALS system in HB10 is coming through that has a big public investment in that. We talked about the ability to have mandatory reporting. If we are going to do it. Do it right, so it has all those elements.

This was not in the Agencies budget but the livestock loss program out of general fund was increased from \$200,000 to 300,000 a year. He talks a lot about proactive measures for grizzly bears and conflicts with bears that will provide funding from nonprofit organizations can put up matching funds for. We are going to continue to work on that. Habitat Montana is intact. The Land Network Bill passed. That was a big cooperative effort amongst a lot of groups. There were licensing cleanup bills. Wolf licensed will come down in price. We are hoping that will put more wolf hunter into the field. We had a big discussion about wildlife data. This bill is still headed to the floor as is a lot of these. The SB349 would make it illegal to use wildlife agencies data to hunt, locate or harass wildlife. That is a big change. It doesn't give the agency the ability to deny giving people that information because of the strong public interest laws in this state. We are going to have an interim study of the growing issue throughout the country.

The Agency need to conduct the research for all kinds of reasons. Other states have given their agencies the ability to deny that. Several bills went down that we wanted to see pass but also would have barred the sale of wildlife location data. We are looking into whether it would be legal to do that. Things are headed to the Governor's desk. It was a very productive session. The agency is well positioned for the next two years. Thank you.

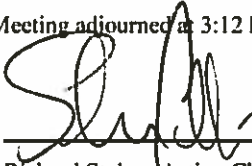
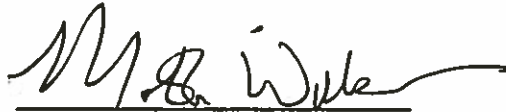
**1. Adjournment**

Acting Chairman Stuker wanted to thank everyone that came today and commented. Thank you for your participation.

**Motion: Commissioner Brower moved, and Commissioner Aldrich seconded to adjourn.**

*Motion passes 5-0.*

Meeting adjourned at 3:12 PM.

  
\_\_\_\_\_  
Richard Stuker, Acting Chairman  
\_\_\_\_\_  
Martha Williams, Director



